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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA

REPORT OF THE PREPARATORY COMMISSION UNDER PARAGRAPH 10 OF RESOLUTION I CONTAINING RECOMMENDATIONS FOR SUBMISSION TO THE MEETING OF STATES PARTIES TO BE CONVENED IN ACCORDANCE WITH ANNEX VI, ARTICLE 4, OF THE CONVENTION REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Volume II

[DOCUMENTS OF SPECIAL COMMISSION 4]

CONTENTS

Page

Working papers

LOS/PCN/SCN.4/WP.1 Practical arrangements for the establishment of the International Tribunal for the Law of the Sea Working paper by the Secretariat 11

LOS/PCN/SCN.4/WP.2 International Tribunal for the Law of the Sea Draft Rules of the Tribunal Prepared by the Secretariat 20

LOS/PCN/SCN.4/WP.2/Add.1 International Tribunal for the Law of the Sea Supplement to the draft Rules of the Tribunal Addendum Prepared by the Secretariat 72

LOS/PCN/SCN.4/WP.2/Rev.1 (Part I) International Tribunal for the Law of the Sea Draft Rules of the Tribunal Part I. Articles 1 to 93 Prepared by the Secretariat 76

LOS/PCN/SCN.4/WP.2/Rev.1 (Part II) International Tribunal for the Law of the Sea Draft Rules of the Tribunal Part II. Articles 94 to 140 Prepared by the Secretariat 118

LOS/PCN/SCN.4/WP.3 International Tribunal for the Law of the Sea Table of concurrence of the draft Rules of the Tribunal Prepared by the Secretariat 143

LOS/PCN/SCN.4/WP.4 Headquarters Agreement and related instruments on privileges and immunities (Issues for consideration) 151

LOS/PCN/SCN.4/WP.5 (Part I) Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany Prepared by the Secretariat 156

LOS/PCN/SCN.4/WP.5 (Part II) Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany

CONTENTS (continued)

		Page
	Part II (Articles 17-28) Prepared by the Secretariat	169
LOS/PCN/SCN.4/WP.5/ Rev.1/Corr.1	Corrigendum	204
LOS/PCN/SCN.4/WP.6	Draft Convention/Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (Prepared by the Secretariat)	205
LOS/PCN/SCN.4/WP.6/Rev.1	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (Prepared by the Secretariat)	223
LOS/PCN/SCN.4/WP.6/ Rev.1/Corr.1 (English only)	Corrigendum	238
LOS/PCN/SCN.4/WP.6/ Rev.1/Corr.2 (A/C/E/R/S only)	Corrigendum	239
LOS/PCN/SCN.4/WP.7	Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations Working paper by the Secretariat	240
LOS/PCN/SCN.4/WP.8	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea Prepared by the Secretariat	260
LOS/PCN/SCN.4/WP.8/Add.1	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum Supplementary cost estimates reflecting alternatives as to official working languages (Prepared by the Secretariat)	278

/...

CONTENTS (continued)

		Page
LOS/PCN/SCN.4/WP.8/ Add.1/Corr.1 (English only)	Corrigendum	284
LOS/PCN/SCN.4/WP.8/Add.2	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum A scheme to phase in the establishment of the International Tribunal for the Law of the Sea (Prepared by the Secretariat)	285
LOS/PCN/SCN.4/WP.8/ Add.2/Corr.1	Corrigendum	297
LOS/PCN/SCN.4/WP.9	Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (Prepared by the Secretariat)	299
LOS/PCN/SCN.4/WP.9/Add.1	Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. Addendum Arrangements regarding the United Nations common system of salaries and benefits, and participation in the United Nations Joint Staff Pension Fund (Prepared by the Secretariat)	313
LOS/PCN/SCN.4/WP.10	Principles governing a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority (Prepared by the Secretariat)	320
LOS/PCN/SCN.4/WP.11	Issues concerning the international financing and budget of the International Tribunal for the Law of the Sea (Prepared by the Secretariat)	329

/...

CONTENTS (continued)

		Page
LOS/PCN/SCN.4/WP.12	Suggestions of the Latin American and Caribbean Group regarding languages of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2)	339
LOS/PCN/SCN.4/WP.13	Proposals submitted by Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland concerning the languages of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2)	340
LOS/PCN/SCN.4/WP.13/ Corr.1	Corrigendum	341
LOS/PCN/SCN.4/WP.14	Draft outline for report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea	342
LOS/PCN/SCN.4/WP.15	Draft report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea ...	362
LOS/PCN/SCN.4/WP.15/ Add.1*	Final draft Rules of the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the revised draft Rules of the Tribunal (LOS/PCN/SCN.4/WP.2/Rev.1, Parts I and II) on the basis of the conclusions of the Special Commission) [Issued as LOS/PCN/SCN.4/WP.16/Add.1]	

---

* Not reproduced herein. Issued subsequently as corresponding addenda to LOS/PCN/WP.16.

CONTENTS (continued)

		Pa
LOS/PCN/SCN.4/WP.15/ Add.2*	Final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (prepared by the Secretariat as a revision of the revised draft Headquarters Agreement (LOS/PCN/SCN.4/WP.5/Rev.1) on the basis of the conclusions of the Special Commission) (LOS/PCN/SCN.4/WP.5/Rev.2)	
LOS/PCN/SCN.4/WP.15/ Add.3*	Final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1) on the basis of the conclusions of the Special Commission) (LOS/PCN/SCN.4/WP.6/Rev.2)	
LOS/PCN/SCN.4/WP.15/ Add.4*	Final draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9) on the basis of the conclusions of the Special Commission) [Issued as LOS/PCN/SCN.4/WP.16/Add.4]	
LOS/PCN/SCN.4/WP.15/ Add.5*	Report on principles governing relationship arrangements between the International Tribunal for the Law of the Sea and the International Seabed Authority (prepared by the Secretariat taking into account the consideration of SCN.4/WP.10 - Principles governing a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed	

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* Not reproduced herein. Issued subsequently as corresponding addenda to LOS/PCN/WP.16.

/...

CONTENTS (continued)

		Page
	Authority) - on the basis of the deliberations of the Special Commission [issued as LOS/PCN/SCN.4/WP.16/Add.5]	
LOS/PCN/SCN.4/WP.15/ Add.6*	Final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the basis of the deliberations and conclusions of the Special Commission based on SCN.4/WP.8 and Add.1 and 2)	
LOS/PCN/SCN.4/WP.15/ Add.7*	Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the basis of the deliberations and conclusions of the Special Commission in reviewing SCN.4/WP.11 - Issues concerning the initial financing and budget of the International Tribunal for the Law of the Sea) [Issued as LOS/PCN/SCN.4/WP.16/Add.7]	
LOS/PCN/SCN.4/WP.15/ Add.8*	Provisional agenda for the First Meeting of States Parties to the Convention, convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat) [Issued as LOS/PCN/SCN.4/WP.16/Add.8]	
LOS/PCN/SCN.4/WP.15/ Add.9*	Provisional rules of procedure for the Meeting of States Parties convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat) [Issued as LOS/PCN/SCN.4/WP.16/Add.9]	

---

* Not reproduced herein. Issued subsequently as corresponding addenda to LOS/PCN/WP.16.

CONTENTS (continued)

		Page
LOS/PCN/SNC.4/WP.15/ Add.10*	Comparative review of alternatives for distribution of seats among members of the Tribunal (prepared by the Secretariat) [Issued as LOS/PCN/SCN.4/WP.16/Add.10]	
LOS/PCN/SCN.4/WP.16	Provisional Report of Special Commission 4. (Draft report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations for submission to the meeting of States Parties to be convened in accordance with annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea)	397
LOS/PCN/SCN.4/WP.16/ Add.1**	Provisional Report of Special Commission 4. Addendum Final draft Rules of the International Tribunal for the Law of the Sea (Working paper prepared by the Secretariat) (LOS/PCN/SCN.4/WP.2/Rev.2)	
LOS/PCN/SCN.4/WP.16/ Add.2**	Provisional Report of Special Commission 4. Addendum Final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5/Rev.2)	
LOS/PCN/SCN.4/WP.16/ Add.3**	Provisional Report of Special Commission 4. Addendum Final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.2)	

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/...

CONTENTS (continued)

		Page
LOS/PCN/SCN.4/WP.16/ Add.4*	Provisional Report of Special Commission 4. Addendum Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea Final draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (Working paper prepared by the Secretariat)	
LOS/PCN/SCN.4/WP.16/ Add.5*	Provisional Report of Special Commission 4. Addendum Report on principles governing a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority (LOS/PCN/SCN.4/WP.10/Add.1)	
LOS/PCN/SCN.4/WP.16/ Add.6*	Provisional Report of Special Commission 4. Addendum Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.8/Rev.1)	
LOS/PCN/SCN.4/WP.16/ Add.7*	Provisional Report of Special Commission 4. Addendum Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea (Prepared by the Secretariat)	
LOS/PCN/SCN.4/WP.16/ Add.8*	Provisional Report of Special Commission 4. Addendum Provisional agenda for the First Meeting of States Parties to the Convention, convened in accordance with annex VI, article 4, of the Convention (Working paper prepared by the Secretariat)	

---

* Reproduced in Volume I of document LOS/PCN/152.

CONTENTS (continued)

LOS/PCN/SCN.4/WP.16/ Add.9*	Provisional Report of Special Commission 4. __Addendum__ Provisional rules of procedure for the Meeting of States Parties to the Convention, convened in accordance with annex VI, article 4, of the Convention (__Working paper prepared by the Secretariat__)
LOS/PCN/SCN.4/WP.16/ Add.10*	Provisional Report of Special Commission 4. __Addendum__ Comparative review of alternatives for distribution of seats among members of the Tribunal (__Working paper prepared by the Secretariat__)

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LOS/PCN/SCN.4/WP 1
16 March 1984

ORIGINAL. ENGLISH

Preparatory Commission for the International
Sea-Bed Authority and for the International
Tribunal for the Law of the Sea
Special Commission 4

PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Working paper by the Secretariat

CONTENTS

		Paragraphs	Page
	Introduction	1 - 4	12
I.	Headquarters Agreement	5 - 7	13
II.	Relationship Agreements	8 - 12	14
III.	General organizational structure	13 - 15	15
IV.	Initial and subsequent financing	16 - 17	16
V.	Internal administrative and financial rules	18	16
VI.	Staff regulations and rules	19	16
VIII.	Procedural rules	20 - 23	17

/...

INTRODUCTION

1. Resolution I of the Third United Nations Conference on the Law of the Sea charges the Preparatory Commission with making the necessary arrangements for the commencement of the functions of the two new international organizations established by the Convention, the International Sea-Bed Authority and the International Tribunal for the Law of the Sea. With regard to the Tribunal, the Preparatory Commission is mandated to prepare a report containing recommendations "regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea" (resolution I, paragraph 10). To this end, the Special Commission for the Tribunal (Special Commission 4) has been established by the Preparatory Commission. The report as regards the Tribunal is to be presented to a meeting of States Parties which will be convened by the Secretary-General of the United Nations within six months of the date of entry into force of the Convention. The meeting is intended for the first election of the Members of the Tribunal.

2. The Tribunal would have to be established and functioning as soon as possible after entry into force of the Convention; otherwise, a vital part of the Convention, the comprehensive dispute settlement system, would lack an essential component of its machinery . It is also to be noted that unless the Tribunal is functioning the work of the Assembly could be held up by any procedural challenge that calls for resolution by the Tribunal. In this context article 159, paragraph 10 provides that there would be a deferment of voting on a proposal on any matter pending an advisory opinion of the Sea-Bed Disputes Chamber, when submitted to it by the requisite one fourth of the Assembly's membership. It is important therefore, that the Tribunal be operational at the earliest possible time. To ensure this result the report should be as comprehensive as possible and should cover all the practical arrangements that are necessary for establishing the Tribunal.

3. At the first meeting of Special Commission 4, the Chairman, Gunter Goerner (German Democratic Republic), identified several items which may be appropriate for consideration by the Special Commission. The items referred to were:

(i) the elaboration of a draft headquarters agreement with the host country;

(ii) preparation of an agreement relating to the privileges and immunities of members and other officers of the Tribunal as well as the representatives of parties, witnesses, and the staff of the Authority;

(iii) arrangements for the initial and subsequent financing of the Tribunal;

(iv) the preparation of draft rules and regulations for the staff of the Tribunal;

(v) preparation of the internal administrative and financial rules of the Tribunal;

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(vi) the preparation of the site of the Tribunal with related buildings and other facilities; and,

(vii) the consideration of procedural rules (or "Rules of Court").

4. The Chairman further drew attention to the need to establish priorities as regards the programme of work. Since no examination of the items and issues to be considered by the Special Commission has yet been carried out, and pending elaboration of a detailed list defining the items, the present paper is confined to the identification of related subject areas, appropriate documentation and existing precedent that would facilitate the Commission's work. It seeks to raise the issues rather than provide solutions.

1. HEADQUARTERS AGREEMENT

5. The question of the headquarters agreement covers several aspects of the relationship between the Tribunal and the host country besides matters pertaining to the site alone. Within the broad context of the headquarters agreement, consideration would also need to be given to aspects of the relations with the host country such as the status, privileges and immunities to be accorded to: the members, registrar, officials and staff of the Tribunal who would be primarily responsible for the conduct of its work; and to parties and their representatives, witnesses, and assessors, whose presence before the Tribunal, when required, would have to be assured.

6. Relevant international conventions and resolutions that have a bearing on this question inter alia are:

- The Vienna Convention on Diplomatic Relations and Optional Protocols, done in Vienna on 18 April 1961;
- The Convention on Special Mission and Optional Protocol, done in New York on 8 December 1969;
- The Convention on Consular Relations and Optional Protocols, done in Vienna on 24 April 1963;
- The General Convention on the Privileges and Immunities of the United Nations done in New York on 13 February 1946;
- Resolution II of the United Nations Conference on Diplomatic Intercourse and Immunities adopted on 14 April 1961;
- United Nations General Assembly resolution 2531 (XXIV) adopted on 8 December 1969 on the settlement of civil claims in connection with the convention on special missions.

Many of these instruments were considered by the United Conference on the Representation of States in their Relations with International Organizations of a Universal Character, and to a great extent the earlier precedent and practice has been reflected in the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character, which was adopted by that Conference on 14 March 1975.

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7. In addition with regard to the headquarters agreement par se, there is a long practice of the United Nations and its related agencies. The subject matter usually covered by headquarters agreements include the following:

- the headquarters district or seat;
- the law and the authority in the Headquarters district and its extra-territorial nature;
- communication and transit to and from the district;
- representatives;
- the protection of the Headquarters district;
- public services, utilities and similar provisions;
- the judicial personality;
- freedom of assembly and freedom of publication;
- property and taxes;
- financial facilities;
- officials and officers;
- residence;
- property, funds and assets; and
- the settlement of disputes.

Such matters are regulated for instance in the exchange of letters between the ICJ and the Netherlands and the headquarters agreement between the United Nations and the USA; FAO with Italy; UNESCO with France; IAEA with Austria; UNEP with Kenya; and the Regional Economic Commissions with the host countries.

II. RELATIONSHIP AGREEMENTS

8. The relationship to be established between the Tribunal and the appropriate intergovernmental bodies would have to be examined as a separate item in some detail. Consideration needs to be given to the nature and extent of the relationship that would be established between the Tribunal and the United Nations because there will have to be an ongoing exchange in the performance of the relevant functions. The Convention recognizes the voluntary procedures for the peaceful settlement of disputes under the United Nations Charter and it is only when such procedures have not resulted in a peaceful solution that recourse may be had to the compulsory and binding jurisdiction of the Tribunal. There is also, for instance, article 298 which calls for interchanges between the Tribunal and the Security Council.

9. Beside the relationship with the United Nations there is also a necessary connection between the Tribunal and the International Court of Justice and relations may be established directly to ensure the effective and expeditious interaction that should exist between them. The Tribunal and the International Court are the two forums for settlement of dispute under the Convention that are pre-constituted rather than established ad hoc as in the case of the other forums. The rationalization of the procedures of the Court and the Tribunal under the Convention could contribute to uniformity and consistency in approaches. It is significant to note that in dealing with provisional measures (article 290, paragraphs 1 and 5) and other urgent procedures such as for the prompt release of vessels and crew (article 292), it is these forums that would be resorted to for expeditious action.

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10. Most importantly, the Commission has to examine the nature of the relationship that needs to be established between the Tribunal and the International Sea-Bed Authority. The Convention contemplates each as being autonomous. However the meetings of States Parties regulating the Tribunal would be the same as the membership of the Assembly. The Authority itself would contribute to the expenses of the Tribunal just as any State Party would (Annex VI, article 19, paragraph 1). Article 162.2(f) empowers the Council to enter into relationship agreements.

11. The interaction between these institutions is substantial and their procedures would have to be compatible. For instance, the procedures for applications for advisory opinions to the Tribunal by the Assembly on procedural issues before it under article 159, paragraph 10 would have to be formulated by both organisations in complementary terms. This would also be the case for the representation of the Authority and its organs before the Tribunal. Article 162.2(u) gives the Council the power to institute proceedings on the recommendation of the Legal and Technical Commission (Article 165.2(i) and (j)), in cases of 'non-compliance' but there is no elaboration of this power.

12. In the result it is likely that the relationship will be complex and these matters would have to be considered both by the Special Commission for the Tribunal and the working group of the Plenary, dealing with the internal rules for the Authority before initial formulations are arrived at. Yet, in the long term it is only a close inter-relationship that would avoid a disruption of the smooth functioning of both organizations.

III. GENERAL ORGANIZATIONAL STRUCTURE

13. At an early stage of negotiations of the Law of the Sea Conference, it was contemplated that there would be two different bodies, viz. a sea-bed tribunal and a separate law of the sea tribunal. The tribunal for sea-bed matters was to be an integral organ of the Authority. Later, it was decided that the merging of these two forums would be a means by which to increase the functional efficiency and effectiveness of the whole dispute settlement machinery. Subsequently, a single tribunal to deal with all aspects of the law of the sea emerged and the independence of that tribunal was seen to be more important than the need to provide it with the organizational, administrative and financial support of the Authority. The Statute provides only limited guidance as to the organizational features of the Tribunal although it does provide specifics as to its composition, and functioning

14. The Tribunal as a whole is composed of 21 independent members representing the principal legal systems and reflecting equitable geographical distribution. In addition the Statute provides for several permanent and ad hoc chambers. There is the specialized Sea-Bed Disputes Chamber composed of 11 members and selected by the Tribunal itself on the basis of recommendations of a general nature that may be adopted by the Assembly, relating to the representation of the principal legal systems and equitable geographical distribution (Annex VI, article 35, paragraph 2). The Sea-Bed Disputes Chamber itself is to form an ad hoc chamber of 3 of its members (Annex VI, article 36, paragraph 1) for dealing with particular disputes. The Tribunal could form special chambers of 3 or more members for dealing with particular categories of disputes, and it is also to form annually a special chamber composed of 5 members for determining disputes by summary procedure.

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15. In addition, the Statute provides for the appointment of a Registrar by the Tribunal and he would be responsible for its registry. In the result, while the organizational structure is defined, there is a degree of detail that will have to be provided as to the manner in which that structure will be given effect to, and a comprehensive arrangement for its functioning will have to be made. The other aspects of the organization, namely, the financial and general internal administration is dealt with under items IV, V and VI below.

IV. INITIAL AND SUBSEQUENT FINANCING

16. The Statute (Annex VI, article 19) provides that the expenses of the Tribunal shall be borne by States Parties and the International Sea-Bed Authority. Other entities that are parties to a case submitted to the Tribunal are required to contribute towards its expenses. These are the only guidelines as to the manner of financing the Tribunal. The matter is left to a meeting of States Parties. It would appear to be premature to examine the initial and subsequent financing until there is a clear picture of the physical facilities available and the operating costs. This would also apply to the operating expenses, including the salaries and emoluments of members, the registrar, officials and staff.

17. Furthermore, in view of the need to provide for contribution to the expenses of the Tribunal by the Authority, it is not possible to examine the question of financing until it is clear as to the manner in which the Authority itself will be financed and provision made for its contribution. The details of those arrangements will have to be first worked out.

V. INTERNAL ADMINISTRATIVE AND FINANCIAL RULES

18. The organizational structure of the Tribunal is described in paragraph 16 above. However, it would appear to have a wide discretion as to how it manages its internal affairs because article 16 of annex VI gives it the general power to frame rules to carry out its functions. The internal administrative and financial rules of the Tribunal would in many respects be of a separate and distinct nature from those of the International Sea-Bed Authority and its organs. Yet, in certain respects the deliberations of the Preparatory Commission in preparing the draft rules for the Authority could provide a useful frame of reference for the rules of the Tribunal A volume of precedent exists in the practice of international tribunals and other international organizations, including the United Nations.

VI. STAFF REGULATIONS AND RULES

19. As with the case of the administrative and financial rules, there is flexibility as to the rules regulating staff relations that the Tribunal can adopt. A decision to draw on precedent and establish parallels with existing international institutions would also promote the rationalization of terms and conditions of employment in the international civil service as a whole. Yet the Tribunal's rules can be expected to be of a similar nature to those required for the Authority as they have similar needs. This would include for instance the similarity of certain aspects of the confidentiality requirements which are seen to be necessary for the staff of the Authority, because confidential

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matters may be the subject of a case brought before the Tribunal or its Sea-Bed Disputes Chamber. As in the other areas of administration, here too there is precedent.

VII. PROCEDURAL RULES

20. Article 16 of annex VI calls on the Tribunal to frame rules to carry out its functions, in particular, the rules of procedure.

21. It is relevant to note that the Statute of the Tribunal is in many respects similar to the Statute of the International Court of Justice. For this reason, it would seem appropriate for the Special Commission to examine particularly the rules of the International Court of Justice in determining the nature and kinds of rules the Tribunal would have to adopt. The Special Commission may wish to formulate draft rules of procedure which would give the necessary direction and provide the political framework for their consideration and adoption by the Tribunal.

22. An examination of existing precedent indicates that the primary international forums of justice have been the International Court of Justice and the Permanent Court of International Justice. The International Court of Justice in adopting its own rules of court has, in great part, closely followed the patterns established by the Permanent Court of International Justice which was viewed as having worked satisfactorily. However, the rules of the Tribunal would have to go beyond the rules of the International Court of Justice because its jurisdiction differs in certain substantial respects. These include the existence of a pre-constituted chamber, viz., the Sea-Bed Dispute Chamber and several ad hoc chambers and also the question of access by entities other than States. Although the International Court of Justice has no practice in this regard, international practice in those respects may be noted to exist elsewhere.

23. The items that may be considered in this context would include the following:

1. Composition (Annex VI, articles 2-9):
   Elections; terms of office; vacancies; selection of members of the Sea-Bed Disputes Chamber; officers; seniority; functions; ad hoc judges; assessors; experts; procedures; notifications; oaths of office; conflicts of interest; withdrawal from case; remuneration.

2. Registrar and other officers (Annex VI, article 12):
   Appointments; terms of office; functions and duties; oaths of office.

3. Registry functions:
   Administrative matters; procedures for registry: reference number, title of case, date of registration, class of case, chamber of case, parties and interventions, method of submission of case.

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4. Functions after case is initiated:
Time-limits and extensions; postponements, deferrals; defaults; observations; notes; cross-referencing to other International Court of Justice or International Tribunal for the Law of the Sea cases; judges or award and provisional measures (nature and date); removal from list; notifications; Tribunal's publications regarding case.

5. Chambers:
Requests for: information; procedures; composition; duration; special requirements regarding ad hoc chambers.

6. Sittings and deliberations:
Sittings; quorum; deliberations; consultations; records, etc.

7. Institution and conduct of contentious proceedings:
Requirements of application; requirements for response; time-limits; receipt of papers, procedures, certification and specifications regarding format of pleadings; rebuttals, amicus curiae briefs, etc.; publication of papers; substitution of parties; interventions; oral proceedings; languages; witnesses; oaths; written dispositions; commissions to examine witnesses.

8. Members of Tribunal:
Power of members; attire; emoluments; perquisites.

9. Other procedures (Annex VI, article 26):
Provisional measures; substitution of parties; summary proceedings; defaults.

10. Decisions or awards of the Tribunal:
Format; deliberations; required majorities; concurring and dissenting opinions; presentation of decision and opinions; interpretation of awards or decisions; notifications; publication.

11. Advisory opinions (article 159, paragraph 10):
Application procedures; discretion of Tribunal; delivery of opinion; publication and notification.

12. Referral of cases by arbitral tribunals for interpretation of the Convention (article 188, paragraph 2)
Procedures for submission; priority of consideration; deliberations, access of parties; opinions.

13. Financial obligations of parties to disputes:
Undertakings; payments.

14. Persistent violation of the Convention or non-compliance (article 185, paragraph 2):
Submission of cases by the Authority to the Sea-Bed Disputes Chamber; procedures; parties; evidence; decisions.

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15. Possible functions as an administrative tribunal (article 168, paragraph 3):
Designation; composition; access of parties; procedures for applications; proceedings; applicable law; nature of decisions, etc.

16. Disputes submitted under other treaties or agreements (Annex VI, article 22):
Terms for submission; costs of Tribunal; nature of awards, etc.

17. Amendments to statute of Tribunal (Annex VI, article 41):
Procedure for proposing amendments to: meetings of States parties; the Authority.

18. Appointment of arbitrators (Annex VII, article 3(e)):
Appointment of president of arbitral tribunal by President or senior member of Tribunal.

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LOS/PCN/SCN.4/
27 July 1984

RIGINAL: ENG

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

DRAFT RULES OF THE TRIBUNAL

(*Prepared by the Secretariat*)

Explanatory note

1. As the first item on its agenda, Special Commission 4 considered the procedural rules for the International Tribunal for the Law of the Sea and examined several aspects of these rules at the second session of the Preparatory Commission (19 March-13 April 1984). The deliberations were based on the introductory statements of the Chairman and on the Secretariat working paper LOS/PCN/SCN.4/WP.1. The Chairman's summary of the discussion on this item is to be found in document LOS/PCN/SCN.4/L.1 dated 10 July 1984.

2. The Preparatory Commission requested the Secretariat to prepare a set of draft rules based on these discussions and taking into account the available precedents, such as those of the International Court of Justice and the Court of Justice of the European Economic Community. The Preparatory Commission also called on the Secretariat to take into account any interpretations the Courts had given in the application of their Rules, as well as the need to ensure that the procedures should be expeditious, not unduly expensive to the parties and should encourage resort to the International Tribunal for the settlement of disputes.

3. Taking these factors into account, the Secretariat presents the Draft Rules of the International Tribunal for the Law of the Sea as a working paper for consideration by the Preparatory Commission and its Special Commission 4.

4. The text presented is divided in accordance with the main issues which are:

(a) Composition and functioning of the Tribunal and its registry;

(b) Proceedings in disputes;

(c) Organization and functioning of the Sea-Bed Disputes Chamber;

(d) Advisory proceedings.

A note at the end of the Draft Rules refers to certain provisions which have not been included.

5. The Draft provides formulations based on the discussions of the Special Commission and appropriate precedents.

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CONTENTS

Article

PREAMBLE ....

PART I - THE TRIBUNAL .... 1 - 22

Section A. Judges and experts .... 1 - 9

Subsection 1. The Members of the Tribunal .... 1 - 6
Subsection 2. Judges *ad hoc* .... 7 - 8
Subsection 3. Experts 9

Section B. The presidency of the Tribunal .... 10 - 14

Section C. The Sea-Bed Disputes Chamber 15

Section D. Special chambers .... 16 - 19

Section E. Internal functioning of the Tribunal .... 20 - 22

PART II - THE REGISTRY .... 23 - 30

PART III - PROCEEDINGS IN DISPUTES .... 31 - 113

Section A. Declarations, agreements, communications and notices .... 31 - 33

Subsection 1. Declarations and agreements 31
Subsection 2. Communications and notices .... 32 - 33

Section B. The composition of the Tribunal for particular cases .... 34 - 39

Section C. Proceedings before the Tribunal .... 40 - 82

Subsection 1. Institution of proceedings .... 40 - 45
Subsection 2. Representation of parties .... 46 - 51
Subsection 3. Proceedings .... 52 - 53
Subsection 4. The written proceedings .... 54 - 63
Subsection 5. The oral proceedings .... 64 - 82

Section D. Incidental proceedings .... 83 - 100

Subsection 1. Provisional measures .... 83 - 88
Subsection 2. Preliminary proceedings 89
Subsection 3. Preliminary objections 90
Subsection 4. Counter-claims 91
Subsection 5. Interventions .... 92 - 97
Subsection 6. Special reference to the Tribunal 98
Subsection 7. Discontinuance .... 99 - 100

/...

CONTENTS (continued)

	Article	Page
Section E. Proceedings before the chambers	101 - 104	58
Section F. Judgements, interpretation and revision	105 - 112	59
Subsection 1. Judgements	105 - 108	59
Subsection 2. Requests for interpretation or revision of a decision	109 - 112	61
Section G. Modifications proposed by the parties	113	62
PART IV - THE SEA-BED DISPUTES CHAMBER	114 - 125	62
Section A. Judges and experts of the Chamber	114 - 119	62
Subsection 1. The Members of the Chamber	114 - 117	62
Subsection 2. Judges *ad hoc*	118	64
Subsection 3. Experts	119	64
Section B. The presidency of the Sea-Bed Disputes Chamber ..	120	65
Section C. Proceedings before the Sea-Bed Disputes Chamber	121 - 123	65
Section D. *Ad Hoc* chambers of the Sea-Bed Disputes Chamber	124	67
Section E. Notifications for enforcement	125	68
PART V - ADVISORY PROCEEDINGS	126 - 134	68

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RULES OF THE TRIBUNAL

Adopted on ....

Preamble

The Tribunal

Having regard to Parts XI and XV of the United Nations Convention on the I
of the Sea, hereinafter referred to as the "Convention";

Having regard to the Statute of the Tribunal, annex VI thereto, hereinafte
referred to as the "Statute";

Acting in pursuance of article 16 of the Statute,

Adopts the following Rules of the Tribunal, approved on ....
which shall come into force on ....,

Part I

THE TRIBUNAL

Section A. Judges and experts

Subsection 1. The Members of the Tribunal

Article 1

1. The Members of the Tribunal are the judges elected in accordance with articles 2 to 6 of the Statute.

2. For the purposes of a particular case, the Tribunal may also include upon
Bench one or more persons chosen under article 17 of the Statute to sit as judg
ad hoc.

3. In the following Rules, the term "Member of the Tribunal" denotes any elec
judge; the term "judge" denotes any Member of the Tribunal, and any judge *ad ho*

Article 2

1. The term of office of Members of the Tribunal elected at a triennial electi
shall begin to run from the (... day and month of first election ...) [1] in the
year in which the vacancies to which they are elected occur.

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[1] This will be the date on which the terms of office of the Members of t
Tribunal elected at the first election begins.

2. The term of office of a Member of the Tribunal elected to replace a Member whose term of office has not expired shall begin to run from the date of the election.

Article 3

1. The Members of the Tribunal, in the exercise of their functions, are of equal status, irrespective of age, priority of election or length of service.

2. The Members of the Tribunal shall, except as provided in paragraphs 4 and 5 of this article, take precedence according to the date on which their terms of office respectively began, as provided for by article 2 of these Rules.

3. Members of the Tribunal whose terms of office began on the same date shall take precedence in relation to one another according to seniority of age.

4. A Member of the Tribunal who is re-elected to a new term of office which is continuous with his previous term shall retain his precedence.

5. The President and the Vice-President of the Tribunal, while holding these offices, shall take precedence before all other Members of the Tribunal.

6. The Member of the Tribunal who, in accordance with the foregoing paragraphs, takes precedence next after the President and the Vice-President is in these Rules designated the "senior judge of the Tribunal". If that Member is unable to act, the Member of the Tribunal who is next after him in precedence and able to act is considered as senior judge.

Article 4

1. The declaration to be made by every Member of the Tribunal in accordance with article 11 of the Statute shall be as follows:

> "I solemnly declare that I will perform my duties and exercise my powers as judge honourably, faithfully, impartially and conscientiously."

2. This declaration shall be made at the first public sitting at which the Member of the Tribunal is present. Such sitting shall be held as soon as practicable after his term of office begins and, if necessary, a special sitting shall be held for the purpose.

3. A Member of the Tribunal who is re-elected shall make a new declaration only if his new term is not continuous with his previous one.

Article 5

1. A Member of the Tribunal deciding to resign shall communicate his decision to the President, and the resignation shall take effect as provided in article 5, paragraph 4, of the Statute.

/...

2. If the Member of the Tribunal deciding to resign from the Tribunal is the President, he shall communicate his decision to the Tribunal, and the resignation shall take effect as provided in article 5, paragraph 4, of the Statute.

Article 6

In any case in which the application of article 9 of the Statute is under consideration, the Member of the Tribunal concerned shall be so informed by the President or, if the circumstances so require, by the Vice-President, in a written statement which shall include the grounds therefor and any relevant evidence. He shall subsequently, at a private meeting of the Tribunal specially convened for the purpose, be afforded an opportunity of making a statement, of furnishing any information or explanations he wishes to give, and of supplying answers, orally or in writing, to any questions put to him. At a further private meeting, at which the Member of the Tribunal concerned shall not be present, the matter shall be discussed; each Member of the Tribunal shall state his opinion, and if requested a vote shall be taken.

Subsection 2. Judges ad hoc

Article 7

1. Judges ad hoc, chosen under article 17 of the Statute for the purposes of particular cases, shall be admitted to sit on the Bench of the Tribunal in the circumstances and according to the procedure indicated in article 18, paragraph 2, articles 37, 38, 39, article 102, paragraph 2, and article 126, paragraph 3 of these Rules.

2. They shall participate in the case in which they sit on terms of complete equality with the other judges on the Bench.

3. Judges ad hoc shall take precedence after the Members of the Tribunal and in order of seniority of age.

Article 8

1. The solemn declaration to be made by every judge ad hoc in accordance with articles 11 and 17, paragraph 6, of the Statute shall be as set out in article 4, paragraph 1, of these Rules.

2. This declaration shall be made at a public sitting in the case in which the judge ad hoc is participating. If the case is being dealt with by a chamber of the Tribunal, the declaration shall be made in the same manner in that chamber.

3. Judges ad hoc shall make the declaration in relation to any case in which they are participating, even if they have already done so in a previous case, but shall not make a new declaration for a later phase of the same case.

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Subsection 3. Experts

Article 9

1. In any dispute involving scientific or technical matters, in accordance with Article 289 of the Convention the Tribunal may, either proprio motu or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a dispute, to appoint two or more experts to sit with it without the right to vote.

2. When the Tribunal so decides, the President shall consult the relevant list prepared in accordance with Annex VIII, Article 2 of the Convention and take steps to obtain all other information relevant to the choice of the experts.

3. The experts shall be selected in consultation with the parties to the dispute and chosen preferably from the relevant list referred to in paragraph 2 by secret ballot and by a majority of the votes of the judges composing the Tribunal for the case.

4. The same powers shall belong to the chambers provided for by articles 14, 15 and 36 of the Statute and to the Presidents thereof, and may be exercised in the same manner.

5. Before entering upon their duties, experts shall make the following declaration at a public sitting:

> "I solemnly declare that I will perform my duties as an expert honourably, impartially and conscientiously, and that I will faithfully observe all the provisions of the Statute and of the Rules of the Tribunal."

Section B. The presidency of the Tribunal

Article 10

1. The term of office of the President and that of the Vice-President of the Tribunal shall begin to run from the date on which the terms of office of the Members of the Tribunal elected at a triennial election begin, in accordance with article 2 of these Rules.

2. The elections to the presidency and vice-presidency of the Tribunal shall be held on that date or shortly thereafter. The former President, if still a Member of the Tribunal, shall continue to exercise his functions until the election to the presidency has taken place.

Article 11

1. If, on the date of the election to the presidency, the former President is still a Member of the Tribunal, he shall conduct the election. If he has ceased to be a Member of the Tribunal, or is unable to act, the election shall be conducted by the Member of the Tribunal exercising the functions of the presidency by virtue of article 13, paragraph 1, of these Rules.

/...

2. The election shall take place by secret ballot, after the presiding Member o the Tribunal has declared the number of affirmative votes necessary for election; there shall be no nominations. The Member of the Tribunal obtaining the votes of majority of the Members composing it at the time of the election shall be declare elected, and shall enter forthwith upon his functions.

3. The new President shall conduct the election of the Vice-President either at the same or at the following meeting. The provisions of paragraph 2 of this article shall apply equally to this election.

Article 12

The President shall preside at all meetings of the Tribunal; he shall direct the work and supervise the administration of the Tribunal.

Article 13

1. In the event of a vacancy in the presidency or of the inability of the President to exercise the functions of the presidency, these shall be exercised b the Vice-President, or failing him by the senior judge.

2. When the President is precluded by a provision of the Statute or of these Rules either from sitting or from presiding in a particular case, he shall contin to exercise the functions of the presidency for all purposes save in respect of that case.

3. The President shall take the measures necessary in order to ensure the continuous exercise of the functions of the presidency at the seat of the Tribunal. In the event of his absence, he may, so far as is compatible with the Statute and these Rules, arrange for these functions to be exercised by the Vice-President, or failing him by the senior judge.

4. If the President decides to resign the presidency, he shall communicate his decision in writing to the Tribunal through the Vice-President, or failing him th senior judge. If the Vice-President decides to resign his office, he shall communicate his decision to the President.

Article 14

If a vacancy in the presidency or the vice-presidency occurs before the date when the current term is due to expire under article 12, paragraph 1, of the Statute and article 10, paragraph 1, of these Rules, the Tribunal shall decide whether or not the vacancy shall be filled during the remainder of the term.

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Section C. The Sea-Bed Disputes Chamber

Article 15

The composition and functioning of the Sea-Bed Disputes Chamber and its *ad hoc* chambers shall be in accordance with Section 4 of the Statute as set out in Parts IV and V of these Rules. The provisions of these Rules relating to proceedings before the Tribunal shall apply *mutatis mutandis* in proceedings before the Sea-Bed Disputes Chamber, except as specifically provided in Parts IV and V of these Rules.

Section D. Special chambers

Article 16

1. The Chamber of Summary Procedure to be formed annually under article 15, paragraph 3 of the Statute shall be composed of five Members of the Tribunal, comprising the President and Vice-President of the Tribunal, acting *ex officio*, and three other members elected in accordance with article 19, paragraph 1, of these Rules. In addition, two Members of the Tribunal shall be elected annually to act as substitutes.

2. The election referred to in paragraph 1 of this article shall be held as soon as possible after the (... day and month of first election ...) 2/ in each year. The members of the Chamber shall enter upon their functions on election and continue to serve until the next election: they may be re-elected.

3. If a member of the Chamber is unable for whatever reason, to sit in a given case, he shall be replaced for the purposes of that case by the senior in precedence of the two substitutes.

4. If a member of the Chamber resigns or otherwise ceases to be a member, his place shall be taken by the senior in precedence of the two substitutes, who shall thereupon become a full member of the Chamber and be replaced by the election of another substitute. Should vacancies exceed the number of available substitutes, elections shall be held as soon as possible in respect of the vacancies still existing after the substitutes have assumed full membership and in respect of the vacancies in the substitutes.

Article 17

1: When the Tribunal decides to form one or more of the standing special chambers provided for in article 15, paragraph 1, of the Statute, it shall determine the particular category of cases for which each chamber is formed, the number of its members, the period for which they will serve, and the date at which they will enter upon their duties.

2/ This will be the date on which the terms of office of the Members of the Tribunal elected at the first election begins.

2. The members of these chambers shall be elected in accordance with article 18, paragraph 1, of these Rules from among the Members of the Tribunal, having regard to any special knowledge, expertise or previous experience which any of the Membe of the Tribunal may have in relation to the category of case the chamber is being formed to deal with.

3. The Tribunal may decide upon the dissolution of a chamber, but without prejudice to the duty of the chamber concerned to finish any cases pending before it.

Article 18

1. A request for the formation of an *ad hoc* special chamber to deal with a particular case, as provided for in article 15, paragraph 2, of the Statute, may b filed at any time until the closure of the written proceedings. Upon receipt of a request made by one party, the President shall ascertain whether the other party assents.

2. When the parties have agreed, the President shall ascertain their views regarding the composition of the chamber, and shall report to the Tribunal accordingly. He shall also take such steps as may be necessary to give effect to the provisions of article 17, paragraph 4, of the Statute.

3. The Tribunal shall determine, with the approval of the parties, the members who are to constitute the chamber. The same procedure shall be followed as regard the filling of any vacancy that may occur on the chamber.

4. Members of a chamber formed under this article who have been replaced, in accordance with article 5 of the Statute following the expiration of their terms o office, shall continue to sit in all phases of the case, whatever the stage it has then reached.

Article 19

1. Election to all chambers shall take place by secret ballot. The Members of the Tribunal obtaining the largest number of votes constituting a majority of the Members of the Tribunal composing it at the time of the election shall be declared elected. If there are more Members of the Tribunal receiving the requisite majority than there are places, the President shall draw lots as between those wit the lowest equal number of votes. 3/ If necessary to fill vacancies, more than one ballot shall take place, such ballot being limited to the number of vacancies that remain to be filled.

3/ In electing members of the Court of Justice of the European Economic Community, article 7, paragraph 3, of its Rules provides for oldest to be the one elected in any case where there is an equal number of votes.

/...

2. If a chamber when formed includes the President or Vice-President of the Tribunal, or both of them, the President or Vice-President, as the case may be, shall preside over that chamber. In any other event, the chamber shall elect its own president by secret ballot and by a majority of votes of its members. The Member of the Tribunal who, under this paragraph, presides over the chamber at the time of its formation shall continue to preside so long as he remains a member of that chamber.

3. The president of a chamber shall exercise, in relation to cases being dealt with by that chamber, all the functions of the President of the Tribunal in relation to cases before the Tribunal.

4. If the president of a chamber is prevented from sitting or from acting as president, the functions of the presidency shall be assumed by the member of the chamber who is the senior in precedence and able to act.

Section E. Internal functioning of the Tribunal

Article 20

The internal judicial practice of the Tribunal shall, subject to the provisions of the Statute and these Rules, be governed by any resolutions on the subject adopted by the Tribunal. [4]

Article 21

1. The quorum specified by article 13, paragraph 1, of the Statute applies to all meetings of the Tribunal.

2. Members of the Tribunal shall hold themselves permanently at the disposal of the Tribunal which entails attendance at all such meetings, unless they are prevented from attending by illness, by absence on leave as provided for in paragraph 4, or for other serious reasons duly explained to the President, who shall inform the Tribunal.

3. Judges *ad hoc* are likewise bound to hold themselves at the disposal of the Tribunal and to attend all meetings held in the case in which they are participating. They shall not be taken into account for the calculation of the quorum.

4. The Tribunal shall fix the dates and duration of the judicial vacations and the periods and conditions of leave to be accorded to individual Members of the Tribunal having regard in both cases to the state of its General List and to the requirements of its current work.

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[4] The International Court of Justice has adopted a resolution which is now in force.

/...

5. Subject to the same considerations, the Tribunal shall observe the public holidays customary at the place where the Tribunal is sitting.

6. In case of urgency the President may convene the Tribunal at any time.

Article 22

1. The deliberations of the Tribunal shall take place in private and remain secret. The Tribunal may however at any time decide in respect of its deliberati on other than judicial matters to publish or allow publication of any part of the

2. Only judges, and the experts, if any, take part in the Tribunal's judicial deliberations. The Registrar, or his deputy, and other members of the staff of t Registry as may be required shall be present. No other person shall be present except by permission of the Tribunal.

3. The minutes of the Tribunal's judicial deliberations shall record only the title or nature of the subjects or matters discussed, and the results of any vote taken. They shall not record any details of the discussions nor the views expressed, provided however that any judge is entitled to require that a statemen made by him be inserted in the minutes.

Part II

THE REGISTRY

Article 23

1. The Tribunal shall elect its Registrar by secret ballot from among candidate proposed by Members of the Tribunal. The Registrar shall be elected for a term o seven years. He may be re-elected.

2. The President shall give notice of a vacancy or impending vacancy to Members of the Tribunal, either forthwith upon the vacancy arising, or, where the vacancy will arise on the expiration of the term of office of the Registrar, not less tha three months prior thereto. The President shall fix a date for the closure of the list of candidates so as to enable nominations and information concerning the candidates to be received in sufficient time.

3. Nominations shall indicate the relevant information concerning the candidate and, in particular, information as to his age, nationality, and present occupatio university qualifications, knowledge of languages, and any previous experience in law and the Law of the Sea, diplomacy or the work of international organizations.

4. The candidate obtaining the votes of the majority of the Members of the Tribunal composing it at the time of the election shall be declared elected.

/..

Article 24

The Tribunal shall elect a Deputy-Registrar; it shall also elect an Assistant-Registrar who shall under the direction of the Registrar and Deputy-Registrar function as the Registrar of the Sea-Bed Disputes Chamber: the provisions of article 23 of these Rules shall apply to their elections and terms of office.

Article 25

1. Before taking up his duties, the Registrar shall make the following declaration at a meeting of the Tribunal:

> "I solemnly declare that I will perform the duties incumbent upon me as Registrar of the International Tribunal for the Law of the Sea in all loyalty, discretion and good conscience, and that I will faithfully observe all the provisions of the Statute and of the Rules of the Tribunal."

2. The Deputy-Registrar and Assistant-Registrar shall make similar declarations at a meeting of the Tribunal before taking up their duties.

Article 26

1. The staff members of the Registry shall be appointed by the Tribunal on proposals submitted by the Registrar. Appointments to such posts as the Tribunal shall determine may however be made by the Registrar with the approval of the President.

2. Before taking up his duties, every staff member shall make the following declaration before the President, the Registrar being present:

> "I solemnly declare that I will perform the duties incumbent upon me as an official of the International Tribunal for the Law of the Sea in all loyalty, discretion and good conscience, and that I will faithfully observe all the provisions of the Statute and of the Rules of the Tribunal."

Article 27

1. The Registrar, in the discharge of his functions, shall:

(a) Be the regular channel of communications to and from the Tribunal, and in particular shall effect all communications, notifications and transmissions of documents required by the Statute or by these Rules and ensure that the date of dispatch and receipt thereof may be readily verified;

(b) Keep, under the supervision of the President, and in such form as may be laid down by the Tribunal, a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry;

/...

(c) Have the custody of the declarations accepting the jurisdiction of the Tribunal made by entities other than States Parties in accordance with article 31 of these Rules, and transmit certified copies thereof to all States Parties, to such other States as shall have deposited declarations, and to the Secretary-Genera of the United Nations and the Secretary-General of the International Sea-Bed Authority;

(d) Transmit to the parties of the dispute copies of all pleadings and documents annexed upon receipt thereof in the Registry;

(e) Communicate to the Government of the country in which the Tribunal or a chamber is sitting, and any other Governments which may be concerned, the necessary information as to the persons from time to time entitled, under the Statute and relevant agreements, to privileges, immunities, or facilities;

(f) Be present, in person or by his deputy, at meetings of the Tribunal, and of the chambers, or by his assistant at meetings of the Sea-Bed Disputes Chamber, and be responsible for the preparation of minutes of such meetings;

(g) Make arrangements for such provision or verification of translations and interpretations into the Tribunal's official languages as the Tribunal may require;

(h) Sign all judgements, advisory opinions and orders of the Tribunal, and the minutes referred to in subparagraph (e);

(i) Be responsible for the printing and publication of the Tribunal's judgements, advisory opinions and orders, the pleadings and statements, and minutes of public sittings in cases, and of such other documents as the Tribunal may direct to be published;

(j) Be responsible for all administrative work and in particular for the accounts and financial administration in accordance with the financial procedures of the Tribunal;

(k) Deal with enquiries concerning the Tribunal and its work;

(l) Assist in maintaining relations between the Tribunal and the organs of the International Sea-Bed Authority, the International Court of Justice and the other organs of the United Nations, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law;

(m) Ensure that information concerning the Tribunal and its activities is mad accessible to Governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media

(n) Have custody of the seals and stamps of the Tribunal, of the archives of the Tribunal, and of such other archives as may be entrusted to the Tribunal.

2. The Tribunal may at any time entrust additional functions to the Registrar.

3. In the discharge of his functions the Registrar shall be responsible to the Tribunal.

/...

Article 28

1. The Deputy-Registrar shall assist the Registrar, act as Registrar in the latter's absence and, in the event of the office becoming vacant, exercise the functions of Registrar until the office has been filled.

2. If both the Registrar and the Deputy-Registrar are unable to carry out the duties of Registrar, the President shall appoint an official of the Registry to discharge those duties for such time as may be necessary. If both offices are vacant at the same time, the President, after consulting the Members of the Tribunal, shall appoint an official of the Registry to discharge the duties of Registrar pending an election to that office.

Article 29

1. The Registry shall comprise the Registrar, the Deputy-Registrar, the Assistant-Registrar and such other staff as the Registrar shall require for the efficient discharge of his functions.

2. The Tribunal shall prescribe the organization of the Registry, and shall for this purpose request the Registrar to make proposals.

3. Instructions for the Registry shall be drawn up by the Registrar and approved by the Tribunal.

4. The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, and approved by the Tribunal.

Article 30

1. The Registrar may be removed from office only if, in the opinion of two thirds of the Members of the Tribunal, he has either become permanently incapacitated from exercising his functions, or has committed a serious breach of his duties.

2. Before a decision is taken under this article, the Registrar shall be informed by the President of the action contemplated, in a written statement which shall include the grounds therefor and any relevant evidence. He shall subsequently, at a private meeting of the Tribunal, be afforded an opportunity of making a statement, of furnishing any information or explanations he wishes to give, and of supplying answers, orally or in writing, to any questions put to him.

3. The Deputy-Registrar and Assistant-Registrar may be removed from office only on the same grounds and by the same procedure.

/...

Part III

PROCEEDINGS IN DISPUTES

Section A. Declarations, agreements, communications and notices

Subsection 1. Declarations and agreements

Article 31

1. Declarations accepting the jurisdiction of the Tribunal in accordance with Article 287 of the Convention and any notice of revocations thereof shall be maintained with the records of the Tribunal by the Registrar.

2. Agreements in accordance with Article 288, paragraph 2 of the Convention, accepting the jurisdiction of the Tribunal may be either particular or general. A general agreement is one accepting the jurisdiction generally in respect of all disputes or of a particular category or categories of disputes which have already arisen, or which may arise in the future. A particular agreement is one accepting the jurisdiction of the Tribunal in respect only of a particular dispute or disputes which have already arisen.

3. A State which is not a State Party but is a party to an agreement conferring jurisdiction on the Tribunal in accordance with article 288, paragraph 2 of the Convention, shall make a declaration to be deposited with the Registrar of the Tribunal according to the following conditions: namely, that it accepts the jurisdiction of the Tribunal or its Sea-Bed Disputes Chamber, in accordance with the Convention, and with the terms and subject to the conditions of the Statute and Rules of the Tribunal and with the agreement conferring jurisdiction, and undertakes to comply in good faith with the decision or decisions of the Tribunal and to accept all the obligations under Article 296 of the Convention.

4. The provisions of paragraph 3 shall apply to the entities other than States to which the dispute settlement procedures are open in accordance with Article 291, paragraph 2 of the Convention.

5. The original declarations made under the terms of paragraphs 3 and 4 and the copies of agreements referred to in paragraph 2 shall be kept in the custody of the Registrar of the Tribunal, in accordance with the practice of the Tribunal. Certified true copies thereof shall be transmitted, in accordance with the practice of the Tribunal, to all States Parties and to such other States as shall have deposited a declaration under the terms of this article, and to the Secretary-General of the United Nations and to the Secretary-General of the International Sea-Bed Authority.

6. All questions as to the validity or the effect of a declaration made under the terms of this article shall be decided by the Tribunal.

/...

Subsection 2. Communications and notices

Article 32

All communications to the Tribunal under these Rules shall be addressed to the Registrar unless otherwise stated. Any request made by a party shall likewise be addressed to the Registrar unless made in open court in the course of the oral proceedings.

Article 33

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Tribunal shall apply direct to the Government of the State upon whose territory the notice has to be served.

2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Section B. The composition of the Tribunal for particular cases

Article 34

1. If the President of the Tribunal is a national of one of the parties in a case he shall not exercise the functions of the presidency in respect of that case. The same rule applies to the Vice-President, or to the senior judge, when called on to act as President.

2. The Member of the Tribunal who is presiding in a case on the date on which the Tribunal convenes for the oral proceedings shall continue to preside in that case until completion of the current phase of the case, notwithstanding the election in the meantime of a new President or Vice-President. If he should become unable to act, the presidency for the case shall be determined in accordance with article 13 of these Rules, and on the basis of the composition of the Tribunal on the date on which it convened for the oral proceedings.

Article 35

Except as provided in article 18 of these Rules, Members of the Tribunal who have been replaced, in accordance with article 5, paragraph 3, of the Statute following the expiration of their terms of office, shall discharge the duty imposed upon them by that paragraph by continuing to sit until the completion of any phase of a case in respect of which the Tribunal convenes for the oral proceedings prior to the date of such replacement.

Article 36

1. In case of any doubt arising as to the application of article 8, paragraph 1, of the Statute or in case of a disagreement as to the application of article 8, paragraphs 2, 3 and 4 of the Statute, the President shall inform the Members of the Tribunal, with whom the decision lies.

/...

2. If a party desires to bring to the attention of the Tribunal facts which it considers to be of possible relevance to the application of the provisions of the Statute mentioned in the previous paragraph, but which it believes may not be know to the Tribunal, that party shall communicate confidentially such facts to the President in writing.

Article 37

1. If a party proposes to exercise the power conferred by article 17 of the Statute to choose a judge ad hoc in a case, it shall notify the Tribunal of its intention as soon as possible. If the name and nationality of the judge selected are not indicated at the same time, the party shall, not later than two months before the time-limit fixed for the filing of the counter-memorial, inform the Tribunal of the name and nationality of the person chosen and supply brief biographical details. The judge ad hoc may be of a nationality other than that of the party which chooses him.

2. If a party proposes to abstain from choosing a judge ad hoc, on condition of like abstention by the other party, it shall so notify the Tribunal which shall inform the other party. If the other party thereafter gives notice of its intention to choose, or chooses, a judge ad hoc, the time-limit for the party whic has previously abstained from choosing a judge may be extended by the President.

3. A copy of any notification relating to the choice of a judge ad hoc shall be communicated by the Registrar to the other party, which shall be requested to furnish, within a time-limit to be fixed by the President, such observations as it may wish to make. If within the said time-limit no objection is raised by the other party, and if none appears to the Tribunal itself, the parties shall be so informed.

4. In the event of any objection or doubt, the matter shall be decided by the Tribunal, if necessary after hearing the parties.

5. A judge ad hoc who has accepted appointment but who becomes unable to sit may be replaced.

6. If and when the reasons for the participation of a judge ad hoc are found no longer to exist, he shall cease to sit on the Bench.

Article 38

1. If the Tribunal finds that two or more parties are in the same interest, and therefore are to be reckoned as one party only, and that there is no Member of the Tribunal of the nationality of any one of these parties upon the Bench, the Tribunal shall fix a time-limit within which they may jointly choose a judge ad hoc

2. Should any party amongst those found by the Tribunal to be in the same interest allege the existence of a separate interest of its own, or put forward any other objection, the matter shall be decided by the Tribunal, if necessary after hearing the parties.

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Article 39

1. If a Member of the Tribunal having the nationality of one of the parties is or becomes unable to sit in any phase of a case, that party shall thereupon become entitled to choose a judge ad hoc within a time-limit to be fixed by the Tribunal, or by the President if the Tribunal is not sitting.

2. Parties in the same interest shall be deemed not to have a judge of one of their nationalities upon the Bench if the Member of the Tribunal having one of their nationalities is or becomes unable to sit in any phase of the case.

3. If the Member of the Tribunal having the nationality of a party becomes able to sit not later than the closure of the written proceedings in that phase of the case, that Member of the Tribunal shall resume his seat on the Bench in the case.

Section C. Proceedings before the Tribunal

Subsection 1. Institution of proceedings

Article 40

1. When proceedings before the Tribunal are instituted by means of an application addressed as specified in article 24, paragraph 1, of the Statute, the application shall indicate the party making it, the State against which the claim is brought, and the subject of the dispute.

2. The application shall specify as far as possible the legal grounds upon which the jurisdiction of the Tribunal is said to be based; it shall also specify the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based.

3. The original of the application shall be signed either by the agent of the party submitting it, or by the diplomatic representative of that party in the country in which the Tribunal has its seat, or by some other duly authorized person. If the application bears the signature of someone other than such diplomatic representative, the signature must be authenticated by the latter or by the competent authority of the applicant's foreign ministry.

4. The Registrar shall forthwith transmit to the respondent a certified copy of the application.

5. When the applicant State proposes to found the jurisdiction of the Tribunal upon a declaration accepting jurisdiction yet to be made by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made declares that it accepts the jurisdiction for the purposes of the case.

6. When proceedings are instituted by entities other than States Parties as provided in the Convention, the provisions of Part IV shall apply as appropriate.

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Article 41

1. When proceedings are brought before the Tribunal by the notification of a special agreement, in conformity with article 24, paragraph 1, of the Statute, the notification may be effected by the parties jointly or by any one or more of them. If the notification is not a joint one, a certified copy of it shall forthwith be communicated by the Registrar to the other party.

2. In each case the notification shall be accompanied by an original or certified copy of the special agreement. The notification shall also, in so far as this is not already apparent from the agreement, indicate the precise subject of the dispute and identify the parties to it.

Article 42

1. Except in the circumstances contemplated by article 40, paragraph 5 of these Rules, all steps on behalf of the parties after proceedings have been instituted shall be taken by agents. Agents shall have an address for service at the seat of the Tribunal to which all communications concerning the case are to be sent. Communications addressed to the agents of the parties shall be considered as having been addressed to the parties themselves.

2. When proceedings are instituted by means of an application, the name of the agent for the applicant shall be stated. The respondent, upon receipt of the certified copy of the application, or as soon as possible thereafter, shall inform the Tribunal of the name of its agent.

3. When proceedings are brought by notification of a special agreement, the party making the notification shall state the name of its agent. Any other party to the special agreement, upon receiving from the Registrar a certified copy of such notification, or as soon as possible thereafter, shall inform the Tribunal of the name of its agent if it has not already done so.

Article 43

The institution of proceedings by an entity which is not a State Party but which has accepted the jurisdiction of the Tribunal by a declaration made in accordance with article 31 of these Rules shall be accompanied by a deposit of the declaration in question, unless the latter has previously been deposited with the Registrar. If any question of the validity or effect of such declaration arises, the Tribunal shall decide.

Article 44

The Registrar shall in accordance with article 24, paragraphs 2 and 3 of the Statute transmit copies of any application or notification of a special agreement instituting proceedings before the Tribunal to: (a) all concerned and (b) all States Parties.

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Article 45

Whenever the interpretation or application of an international agreement related to the purposes of the Convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 288, paragraph 2, of the Convention, or of articles 21 and 22, of the Statute, the Tribunal shall consider what directions shall be given to the Registrar in the matter.

Subsection 2. Representation of parties

Article 46

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Tribunal.

3. The agents, counsel and advocates of parties before the Tribunal shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

4. A State Party may at any time notify the Tribunal by an official communication as to who is authorized to represent it for the purposes of proceedings under Article 292 of the Convention.

Article 47

1. Agents representing a State or any other Entities party to proceedings before the Tribunal as well as counsel and advocates appearing before the Tribunal shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, counsel and advocates shall enjoy the following further privileges and facilities:

(a) Papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Tribunal for inspection in the presence of the Registrar and of the person concerned;

(b) Agents, counsel and advocates shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;

(c) Agents, counsel and advocates shall be entitled to travel in the course of duty without hindrance.

Article 48

In order to quality for the privileges, immunities and facilities specified in article 47, persons entitled to them shall furnish proof of their status as follows:

(a) Agents shall produce an official document issued by the State or Entity which they represent; a copy of this document shall be forwarded without delay to the Registrar by the State or Entity concerned;

(b) Counsel and advocates shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 49

1. The privileges, immunities and facilities specified in article 47 of these Rules are granted exclusively in the interests of the proper conduct of proceedin

2. The Tribunal may waive the immunity where it considers that the proper conduc of proceedings will not be hindered thereby.

Article 50

1. Any counsel or advocate whose conduct towards the Tribunal, a chamber, a judge, or the Registrar is incompatible with the dignity of the Tribunal or who uses his rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order of the Tribunal or chamber; the person concerned shall be given an opportunity to defend himself. The order shall have immediate effect.

2. Where a counsel or advocate is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another counsel or advocate.

3. Decisions taken under this article may be rescinded.

Article 51

The provisions of this subsection shall apply to university teachers who have a right of audience before the Tribunal.

Subsection 3. Proceedings

Article 52

1. The proceedings shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Tribunal an to the parties of memorials, counter-memorials and, if necessary, replies; also al papers and documents in support.

3. These communications shall be made through the Registrar, in the order and within the time fixed by the Tribunal.

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4. A certified copy of every document produced by one party shall be communicated to the other party.

5. The oral proceedings shall consist of the hearing by the Tribunal of witnesses, experts, agents, counsel and advocates.

Article 53

In every case submitted to the Tribunal, the President shall ascertain the views of the parties with regard to questions of procedure. For this purpose he shall summon the agents of the parties to meet him as soon as possible after their appointment, and whenever necessary thereafter.

Subsection 4. The written proceedings

Article 54

1. In the light of the information obtained by the President under article 53 of these Rules, the Tribunal shall make the necessary orders to determine, *inter alia*, the number and the order of filing of the pleadings and the time-limits within which they must be filed.

2. In making an order under paragraph 1 of this article, any agreement between the parties which does not cause unjustified delay shall be taken into account.

3. The Tribunal may, at the request of the party concerned, extend any time-limit, or decide that any step taken after the expiration of the time-limit fixed therefor shall be considered as valid, if it is satisfied that there is adequate justification for the request. In either case the other party shall be given an opportunity to state its views.

4. If the Tribunal is not sitting, its powers under this article shall be exercised by the President, but without prejudice to any subsequent decision of the Tribunal. If the consultation referred to in article 54 reveals persistent disagreement between the parties as to the application of article 55, paragraph 2, and of article 56, paragraph 2 of these Rules, the Tribunal shall be convened to decide the matter.

Article 55

1. The pleadings in a case begun by means of an application shall consist, in the following order, of: a memorial by the applicant; a counter-memorial by the respondent.

2. The Tribunal may authorize or direct that there shall be a reply by the applicant and a rejoinder by the respondent if the parties are so agreed, or if the Tribunal decides, *proprio motu* or at the request of one of the parties, that these pleadings are necessary.

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Article 56

1. In a case begun by the notification of a special agreement, the number and order of the pleadings shall be governed by the provisions of the agreement, unle the Tribunal, after ascertaining the views of the parties, decides otherwise.

2. If the special agreement contains no such provision, and if the parties have not subsequently agreed on the number and order of pleadings, they shall each fil a memorial and counter-memorial, within the same time-limits. The Tribunal shall not authorize the presentation of replies unless it finds them to be necessary.

Article 57

The Tribunal may at any time direct that the proceedings in two or more case be joined. It may also direct that the written or oral proceedings, including th calling of witnesses, be in common; or the Tribunal may, without effecting any formal joinder, direct common action in any of these respects.

Article 58

Time-limits for the completion of steps in the proceedings may be fixed by assigning a specified period but shall always indicate definite dates. Such time-limits shall be as short as the character of the case permits.

Article 59

1. A memorial shall contain a statement of the relevant facts, a statement of law, and the submissions.

2. A counter-memorial shall contain: an admission or denial of the facts stated in the memorial; any additional facts, if necessary; observations concerning the statement of law in the memorial; a statement of law in answer thereto; and the submissions.

3. The reply and rejoinder, whenever authorized by the Tribunal, shall not merel repeat the parties' contentions, but shall be directed to bringing out the issues that still divide them.

4. Every pleading shall set out the party's submission at the relevant state of the case, distinctly from the arguments presented, or shall confirm the submission previously made.

Article 60

1. There shall be annexed to the original of every pleading certified copies of any relevant documents adduced in support of the contentions contained in the pleading.

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2. If only parts of a document are relevant, only such extracts as are necessary for the purpose of the pleading in question need be annexed. A copy of the whole document shall be deposited in the Registry, unless it has been published and is readily available.

3. A list of all documents annexed to a pleading shall be furnished at the time the pleading is filed.

Article 61

1. If the parties are agreed that the written proceedings shall be conducted wholly in one of the [two] 5/ official languages of the Tribunal, the pleadings shall be submitted only in that language. If the parties are not so agreed, any pleading or any part of a pleading shall be submitted in one or other of the official languages.

2. If the parties agree that the case shall be conducted in any one of the official languages, the judgement shall be delivered in that language.

3. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Tribunal shall be given in at least two of the official languages. In this case the Tribunal shall at the same time determine which of the texts shall be considered as authoritative.

4. The Tribunal shall, at the request of any party, authorize a language other than an official language to be used by that party.

5. If a language other than the official languages is used, a translation into one of the official languages certified as accurate by the party submitting it, shall be attached to the original of each pleading.

6. When a document annexed to a pleading is not in one of the official languages of the Tribunal, it shall be accompanied by a translation into one of these languages certified by the party submitting it as accurate. The translation may be confined to part of an annex, or to extracts therefrom, but in this case it must be accompanied by an explanatory note indicating what passages are translated. The Tribunal may however require a more extensive or a complete translation to be furnished.

5/ A decision would need to be taken by the meeting of States Parties as to what the official languages of the Tribunal will be.

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Article 62 6/

1. The original of every pleading shall be signed by the agent and filed in th Registry. It shall be accompanied by a certified copy of the pleading, document annexed, and any translations, for communication to the other party and by the number of additional copies required by the Registry, but without prejudice to a increase in that number should the need arise later.

2. All pleadings shall be dated. When a pleading has to be filed by a certain date, it is the date of the receipt of the pleading in the Registry which will b regarded by the Tribunal as the material date.

3. If the Registrar arranges for the printing of a pleading at the request of party, the text must be supplied in sufficient time to enable the printed pleadi to be filed in the Registry before the expiration of any time-limit which may ap to it. The printing is done under the responsibility of the party in question.

4. The correction of a slip or error in any document which has been filed may b made at any time with the consent of the other party or by leave of the President Any correction so effected shall be notified to the other party in the same mann as the pleading to which it relates.

Article 63

1. The Tribunal, or the President if the Tribunal is not sitting, may at any ti decide, after ascertaining the views of the parties, that copies of the pleadings and documents annexed shall be made available to a party entitled to appear befor it which has asked to be furnished with such copies.

2. The Tribunal may, after ascertaining the views of the parties, decide that copies of the pleadings and documents annexed shall be made accessible to the public on or after the opening of the oral proceedings.

Subsection 5. The oral proceedings

Article 64

1. Upon the closure of the written proceedings, the case is ready for hearing. The date for the opening of the oral proceedings shall be fixed by the Tribunal, which may also decide, if occasion should arise, that the opening or the continuance of the oral proceedings be postponed.

2. When fixing the date for, or postponing, the opening of the oral proceedings the Tribunal shall have regard to the priority required by article 84 of these Ru and to any other special circumstances, including the urgency of a particular cas

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6/ The agents of the parties are requested to ascertain from the Registry the usual format of the pleadings, and the conditions on which the Tribunal may bear part of the cost of printing.

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3. When the Tribunal is not sitting, its powers under this article shall be exercised by the President.

Article 65

The Tribunal may, if it considers it desirable, decide pursuant to article 1, paragraph 3, of the Statute that all or part of the further proceedings in a case shall be held at a place other than the seat of the Tribunal. Before so deciding, it shall ascertain the views of the parties.

Article 66

1. After the closure of the written proceedings, no further documents may be submitted to the Tribunal by either party except with the consent of the other party or as provided in paragraph 2 of this article. The party desiring to produce a new document shall file the original or a certified copy thereof, together with the number of copies required by the Registry, which shall be responsible for communicating it to the other party and shall inform the Tribunal. The other party shall be held to have given its consent if it does not lodge an objection to the production of the document.

2. In the absence of consent, the Tribunal, after hearing the parties, may, if it considers the document necessary, authorize its production.

3. If a new document is produced under paragraph 1 or paragraph 2 of this article, the other party shall have an opportunity of commenting upon it and of submitting documents in support of its comments.

4. No reference may be made during the oral proceedings to the contents of any document which has not been produced in accordance with this article, unless the document is part of a publication readily available.

5. The application of the provisions of this article shall not in itself constitute a ground for delaying the opening or the course of the oral proceedings.

Article 67

Without prejudice to the provisions of the Rules concerning the production of documents, each party shall communicate to the Registrar, in sufficient time before the opening of the oral proceedings, information regarding any evidence which it intends to produce or which it intends to request the Tribunal to obtain. This communication shall contain a list of the surnames, first names, nationalities, descriptions and places of residence of the witnesses and expert witnesses whom the party intends to call, with indications in general terms of the point or points to which their evidence will be directed. A copy of the communication shall also be furnished for transmission to the other party.

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Article 68

1. The Tribunal shall determine whether the parties should present their arguments before or after the production of the evidence; the parties shall, however, retain the right to comment on the evidence given.

2. The order in which the parties will be heard, the method of handling the evidence and of examining any witnesses and expert witnesses, and the number of counsel and advocates to be heard on behalf of each party, shall be settled by the Tribunal after the views of the parties have been ascertained in accordance with article 53 of these Rules.

Article 69

The hearing in the Tribunal shall be public, unless the Tribunal shall decide otherwise, or unless the parties demand that the public be not admitted. Such a decision or demand may concern either the whole or part of the hearing, and may be made at any time.

Article 70

1. The oral statements made on behalf of each party shall be as succinct as possible within the limits of what is requisite for the adequate presentation of that party's contentions at the hearing. Accordingly, they shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain.

2. At the conclusion of the last statement made by a party at the hearing, its agent, without recapitulation of the arguments, shall read that party's final submissions. A copy of the written text of these, signed by the agent, shall be communicated to the Tribunal and transmitted to the other party.

Article 71

1. The Tribunal may at any time prior to or during the hearing indicate any points or issues to which it would like the parties specially to address themselves, or on which it considers that there has been sufficient argument.

2. The Tribunal may, during the hearing, put questions to the agents, counsel ar advocates, and may ask them for explanations.

3. Each judge has a similar right to put questions, but before exercising it he should make his intention known to the President, who is made responsible by article 26, paragraph 1, of the Statute for the control of the hearing.

4. The agents, counsel and advocates may answer either immediately or within a time-limit fixed by the President.

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Article 72

1. The Tribunal may at any time call upon the parties to produce such evidence or to give such explanations as the Tribunal may consider to be necessary for the elucidation of any aspect of the matters in issue, or may itself seek other information for this purpose.

2. The Tribunal may, if necessary, arrange for the attendance of a witness or expert witness to give evidence in the proceedings.

Article 73

1. The parties may call any witnesses or expert witnesses appearing on the list communicated to the Tribunal pursuant to article 67 of these Rules. If at any time during the hearing a party wishes to call a witness or expert witness whose name was not included in that list, it shall so inform the Tribunal and the other party, and shall supply the information required by article 67. The witness or expert witness may be called either if the other party makes no objection or if the Tribunal is satisfied that his evidence seems likely to prove relevant.

2. The Tribunal, or the President if the Tribunal is not sitting, shall, at the request of one of the parties or proprio motu, take the necessary steps for the examination of witnesses otherwise than before the Tribunal itself.

Article 74

Unless on account of special circumstances the Tribunal decides on a different form of words,

(a) Every witness shall make the following declaration before giving any evidence:

> "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth";

(b) Every expert witness shall make the following declaration before making any statement:

> "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth, and that my statement will be in accordance with my sincere belief."

Article 75

Witnesses and expert witnesses shall be examined by the agents, counsel or advocates of the parties under the control of the President. Questions may be put to them by the President and by the judges. Before testifying witnesses shall remain out of court.

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Article 76

The Tribunal may at any time decide, either *proprio motu* or at the request of a party, to exercise its functions with regard to the obtaining of evidence at a place or locality to which the case relates, subject to such conditions as the Tribunal may decide upon after ascertaining the views of the parties. The necessary arrangements shall be made in accordance with article 33 of these Rules.

Article 77

1. If the Tribunal considers it necessary to arrange for an enquiry or an expert witness' opinion, it shall, after hearing the parties, issue an order to this effect, defining the subject of the enquiry or expert opinion, stating the number and mode of appointment of the persons to hold the enquiry or of the experts, and laying down the procedure to be followed. Where appropriate, the Tribunal shall require persons appointed to carry out an enquiry, or to give an expert opinion, t make a solemn declaration.

2. Every report or record of an enquiry and every expert opinion shall be communicated to the parties, which shall be given the opportunity of commenting upon it.

Article 78

Witnesses and expert witnesses who appear at the instance of the Tribunal under article 72, paragraph 2, and persons appointed under article 77, paragraph 1 of these Rules, to carry out an enquiry or to give an expert opinion, shall, where appropriate, be paid out of the funds of the Tribunal.

Article 79

1. The Tribunal may, at any time prior to the closure of the oral proceedings, either *proprio motu* or at the request of one of the parties communicated as provided in article 67 of these Rules, request a public international organization to furnish information relevant to a case before it. The Tribunal, after consulting the chief administrative officer of the organization concerned, shall decide whether such information shall be presented to it orally or in writing, and the time-limits for its presentation.

2. When a public international organization sees fit to furnish, on its own initiative, information relevant to a case before the Tribunal, it shall do so in the form of a memorial to be filed in the Registry before the closure of the written proceedings. The Tribunal shall retain the right to require such information to be supplemented, either orally or in writing, in the form of answer to any questions which it may see fit to formulate, and also to authorize the parties to comment, either orally or in writing, on the information thus furnished

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Tribunal, the Registrar shall, on the instruction

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of the Tribunal, or of the President if the Tribunal is not sitting, so notify the public international organization concerned and shall communicate to it copies of all the written proceedings. The Tribunal, or the President if the Tribunal is not sitting, may, as from the date on which the Registrar has communicated copies of the written proceedings and after consulting the chief administrative officer of the public international organization concerned, fix a time-limit within which the organization may submit to the Tribunal its observations in writing. These observations shall be communicated to the parties and may be discussed by them and by the representative of the said organization during the oral proceedings.

4. In the foregoing paragraphs, the term "public international organization" denotes an international organization of States.

Article 80

1. In the absence of any decision to the contrary by the Tribunal, all speeches and statements made and evidence given at the hearing in one of the official languages of the Tribunal shall be interpreted into the other official languages. If they are made or given in any other language, they shall be interpreted into the official languages of the Tribunal.

2. Whenever, in accordance with article 61, paragraph 4, of these Rules, a language other than an official language is used, the necessary arrangements for interpretation into one of the official languages shall be made by the party concerned; however, the Registrar shall make arrangements for the verification of the interpretation provided by a party of evidence given on the party's behalf. In the case of witnesses or expert witnesses who appear at the instance of the Tribunal, arrangements for interpretation shall be made by the Registry.

3. A party on behalf of which speeches or statements are to be made, or evidence given, in a language which is not one of the official languages of the Tribunal, shall so notify the Registrar in sufficient time for him to make the necessary arrangements.

4. Before first interpreting in the case, interpreters provided by a party shall make the following declaration in open court:

> "I solemnly declare upon my honour and conscience that my interpretation will be faithful and complete."

Article 81

1. A verbatim record shall be made by the Registrar of every hearing, in the official language of the Tribunal which has been used. When the language used is not one of the official languages of the Tribunal, the verbatim record shall be prepared in one of the Tribunal's official languages.

2. When speeches or statements are made in a language which is not one of the official languages, the party on behalf of which they are made shall supply to the Registry in advance a text thereof in one of the official languages, and this text shall constitute the relevant part of the verbatim record.

3. The transcript of the verbatim record shall be preceded by the names of the judges present, and those of the agents, counsel and advocates of the parties.

4. Copies of the transcript shall be circulated to the judges sitting in the case, and to the parties. The latter may, under the supervision of the Tribunal, correct the transcripts of speeches and statements made on their behalf, but in no case may such corrections affect the sense and bearing thereof. The judges may likewise make corrections in the transcript of anything they may have said.

5. Witnesses and expert witnesses shall be shown that part of the transcript which relates to the evidence given, or the statements made by them, and may correct it in like manner as the parties.

6. Minutes shall be made at each hearing and signed by the Registrar and the President. These minutes alone shall be authentic.

7. One certified true copy of the eventual corrected transcript, signed by the President and the Registrar, shall constitute the authentic minutes of the sitting for the purposes of paragraph 6. The minutes of public hearings shall be printed and published by the Tribunal.

Article 82

Any written reply by a party to a question put under article 71, or any evidence or explanation supplied by a party under article 72 of these Rules, received by the Tribunal after the closure of the oral proceedings, shall be communicated to the other party, which shall be given the opportunity of commentin upon it. If necessary the oral proceedings may be reopened for that purpose.

Section D. Incidental proceedings

Subsection 1. Provisional measures

Article 83

1. A written request for the prescription of provisional measures may be made by a party at any time in accordance with Article 290 of the Convention.

2. The request shall specify the reasons therefor, the possible consequences if it is not granted, and the measures requested. A certified copy shall forthwith b transmitted by the Registrar to the other party.

Article 84

1. A request for the prescription of provisional measures shall have priority over all other cases.

2. The Tribunal, if it is not sitting when the request is made, shall be convene forthwith for the purpose of proceeding to a decision on the request as a matter o urgency.

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3. The Tribunal, or the President if the Tribunal is not sitting, shall fix a date for a hearing which will afford the parties an opportunity of being represented at it. The Tribunal shall receive and take into account any observations that may be presented to it before the closure of the oral proceedings.

4. Pending the meeting of the Tribunal, the President may call upon the parties to act in such a way as will enable any order the Tribunal may make on the request for provisional measures to have its appropriate effects.

Article 85

The rejection of a request for the prescription of provisional measures shall not prevent the party which made it from making a fresh request in the same case based on new facts.

Article 86

Any application by a party in accordance with Article 290, paragraph 3, of the Convention requesting the modification or revocation of provisional measures shall specify the change in circumstances which justified them.

Article 87

Any measures indicated by the Tribunal under Article 290 of the Convention shall forthwith be communicated in accordance with Article 290, paragraph 4, of the Convention.

Article 88

The Tribunal may request information from the parties on any matter connected with the implementation of any provisional measures it has prescribed.

(Note: Need new Subsection and provisions for prompt release of vessels (Art. 292 of the Convention).)

Subsection 2. Preliminary proceedings

Article 89

1. When an application is made in respect of a dispute referred to in Article 297 of the Convention, the Tribunal shall, at the request of a party, or may, proprio motu determine whether prima facie the application is well founded.

2. In any case where the Tribunal determines that the claim constitutes an abuse of legal process or is prima facie unfounded, it shall make an order recording the discontinuance of the proceedings and directing that the case be not entered in the General List.

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Subsection 3. Preliminary objections

Article 90

1. Any objection by the respondent to the jurisdiction of the Tribunal or to the admissibility of the application, or other objection the decision upon which is requested before any further proceedings on the merits, shall be made in writing within the time-limit fixed for the delivery of the counter-memorial. Any such objection made by a party other than the respondent shall be filed within the time-limit fixed for the delivery of that party's first pleading.

2. The preliminary objection shall set out the facts and the law on which the objection is based, the submissions and a list of the documents in support; it shall mention any evidence which the party may desire to produce. Copies of the supporting documents shall be attached.

3. Upon receipt by the Registry of a preliminary objection, the proceedings on the merits shall be suspended and the Tribunal, or the President if the Tribunal is not sitting, shall fix the time-limit within which the other party may present a written statement of its observations and submissions; documents in support shall be attached and evidence which it is proposed to produce shall be mentioned.

4. Unless otherwise decided by the Tribunal, the further proceedings shall be oral.

5. The statements of fact and law in the pleadings referred to in paragraphs 2 and 3 of this article, and the statements and evidence presented at the hearings contemplated by paragraph 4, shall be confined to those matters that are relevant to the objection.

6. In order to enable the Tribunal to determine its jurisdiction at the preliminary stage of the proceedings, the Tribunal, whenever necessary, may reques the parties to argue all questions of law and fact, and to adduce all evidence, which bear on the issue.

7. After hearing the parties, the Tribunal shall give its decision in the form o a judgement, by which it shall either uphold the objection, reject it, or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character. If the Tribunal rejects the objection or declares that it does not possess an exclusively preliminary character, it shall fix time-limits for the further proceedings.

8. Any agreement between the parties that an objection submitted under paragraph 1 of this article be heard and determined within the framework of the merits shall be given effect by the Tribunal.

Subsection 4. Counter-claims

Article 91

1. A counter-claim may be presented provided that it is directly connected with the subject-matter of the claim of the other party and that it comes within the jurisdiction of the Tribunal.

2. A counter-claim shall be made in the counter-memorial of the party presenting it, and shall appear as part of the submissions of that party.

3. In the event of doubt as to the connection between the question presented by way of counter-claim and the subject-matter of the claim of the other party the Tribunal shall, after hearing the parties, decide whether or not the question thus presented shall be joined to the original proceedings.

Subsection 5. Intervention

Article 92

1. An application for permission to intervene under the terms of article 31 of the Statute, signed in the manner provided for in article 40, paragraph 3, of these Rules, shall be filed as soon as possible, and not later than the closure of the written proceedings. In exceptional circumstances, an application submitted at a later stage may however be admitted.

2. The application shall state the name of an agent. It shall specify the case to which it relates, and shall set out:

(a) The interest of a legal nature which the State applying to intervene considers may be affected by the decision in that case;

(b) The precise object of the intervention;

(c) Any basis of jurisdiction which is claimed to exist as between the State applying to intervene and the parties to the case.

3. The application shall contain a list of the documents in support, which documents shall be attached.

Article 93

1. A State which desires to avail itself of the right of intervention conferred upon it by article 32 of the Statute shall file a declaration to that effect, signed in the manner provided for in article 40, paragraph 3, of these Rules. Such a declaration shall be filed as soon as possible, and not later than the date fixed for the opening of the oral proceedings. In exceptional circumstances a declaration submitted at a later stage may however be admitted.

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2. The declaration shall state the name of an agent. It shall specify the case and the international agreement to which it relates and shall contain:

(a) Particulars of the basis on which the declarant State considers itself party to the international agreement;

(b) Identification of the particular provisions of the international agreement the construction of which it considers to be in question;

(c) A statement of the construction of those provisions for which it conten

(d) A list of the documents in support, which documents shall be attached.

3. Such a declaration may be filed by a State that considers itself a party to the international agreement the construction of which is in question but has not received the notification referred to in article 32, paragraph 2, of the Statute.

Article 94

1. Certified copies of the application for permission to intervene under article 31 of the Statute, or of the declaration of intervention under article 32 of the Statute, shall be communicated forthwith to the parties to the case, which shall be invited to furnish their written observations within a time-limit to be fixed by the Tribunal or by the President if the Tribunal is not sitting.

2. The Registrar shall also transmit copies to: (a) States Parties; (b) the Secretary-General of the United Nations; (c) the Secretary-General of the International Sea-Bed Authority; (d) any other parties which have been notified under article 32, paragraph 2, of the Statute.

Article 95

1. The Tribunal shall decide whether an application for permission to interven under article 31 of the Statute should be granted, and whether an intervention under article 32 of the Statute is admissible, as a matter of priority unless in view of the circumstances of the case the Tribunal shall otherwise determine.

2. If, within the time-limit fixed under article 94 of these Rules, an objecti is filed to an application for permission to intervene, or to the admissibility a declaration of intervention, the Tribunal shall hear the State seeking to intervene and the parties before deciding.

Article 96

1. If an application for permission to intervene under article 31 of the Statu is granted, the intervening State shall be supplied with copies of the pleadings and documents annexed and shall be entitled to submit a written statement within time-limit to be fixed by the Tribunal. A further time-limit shall be fixed wit

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which the parties may, if they so desire, furnish their written observations on that statement prior to the oral proceedings. If the Tribunal is not sitting, these time-limits shall be fixed by the President.

2. The time-limits fixed according to the preceding paragraph shall, so far as possible, coincide with those already fixed for the pleadings in the case.

3. The intervening State shall be entitled, in the course of the oral proceedings, to submit its observations with respect to the subject-matter of the intervention.

Article 97

1. If an intervention under article 32 of the Statute is admitted, the intervening State shall be furnished with copies of the pleadings and documents annexed, and shall be entitled, within a time-limit to be fixed by the Tribunal, or by the President if the Tribunal is not sitting, to submit its written observations on the subject-matter of the intervention.

2. These observations shall be communicated to the parties and to any other State admitted to intervene. The intervening State shall be entitled, in the course of the oral proceedings, to submit its observations with respect to the subject-matter of the intervention.

Subsection 6. Special reference to the Tribunal

Article 98

1. When in accordance with the Convention or an international agreement in force, a dispute or application is submitted to the Tribunal concerning a matter which has been the subject of proceedings under another court or tribunal provided in Parts XI or XV of the Convention or of its Annexes or before some other international body, the provisions of the Statute and the Rules governing disputes or applications shall apply.

2. The application instituting proceedings shall identify the decision or other act of the court or tribunal or of the international body concerned and a copy thereof shall be annexed; it shall contain a precise statement of the questions raised in regard to that decision or act, which constitute the subject of the dispute referred to the Tribunal.

Subsection 7. Discontinuance

Article 99

1. If at any time before the final judgement on the merits has been delivered the parties, either jointly or separately, notify the Tribunal in writing that they have agreed to discontinue the proceedings, the Tribunal shall make an order recording the discontinuance and directing that the case be removed from the list.

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2. If the parties have agreed to discontinue the proceedings in consequence of having reached a settlement of the dispute and if they so desire, the Tribunal may record this fact in the order for the removal of the case from the list, or indicate in, or annex to, the order, the terms of the settlement.

3. If the Tribunal is not sitting, any order under this article may be made by the President.

Article 100

1. If in the course of proceedings instituted by means of an application, the applicant informs the Tribunal in writing that it is not going on with the proceedings, and if, at the date on which this communication is received by the Registry, the respondent has not yet taken any step in the proceedings, the Tribunal shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. A copy of this order shall be sent by the Registrar to the respondent.

2. If, at the time when the notice of discontinuance is received, the respondent has already taken some step in the proceedings, the Tribunal shall fix a time-limi within which the respondent may state whether it opposes the discontinuance of the proceedings. If no objection is made to the discontinuance before the expiration of the time-limit, acquiescence will be presumed and the Tribunal shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. If objection is made, the proceedings shall continue.

3. If the Tribunal is not sitting, its powers under this article may be exercise by the President.

Section E. Proceedings before the chambers

Article 101

Proceedings before the chambers mentioned in articles 14 and 15 of the Statut shall, subject to the provisions of the Statute and of these Rules relating specifically to the chambers, be governed by the provisions of Parts I to III of these Rules applicable in disputes before the Tribunal.

Article 102

1. When it is desired that a case should be dealt with by one of the chambers which has been formed in pursuance of article 15, paragraph 1, or article 15, paragraph 3, of the Statute, a request to this effect shall either be made in the document instituting the proceedings or accompanying it. Effect will be given to the request if the parties are in agreement.

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2. Upon receipt by the Registry of this request, the President of the Tribunal shall communicate it to the members of the chamber concerned. He shall take such steps as may be necessary to give effect to the provisions of article 17, paragraph 4, of the Statute.

3. The President of the Tribunal shall convene the chamber at the earliest date compatible with the requirements of the procedure.

Article 103

1. Written proceedings in a case before a chamber shall consist of a single pleading by each side. In proceedings begun by means of an application, the pleadings shall be delivered within successive time-limits. In proceedings begun by the notification of a special agreement, the pleadings shall be delivered within the same time-limits, unless the parties have agreed on successive delivery of their pleadings. The time-limits referred to in this paragraph shall be fixed by the Tribunal, or by the President if the Tribunal is not sitting, in consultation with the chamber concerned if it is already constituted.

2. The chamber may authorize or direct that further pleadings be filed if the parties are so agreed, or if the chamber decides, proprio motu or at the request of one of the parties, that such pleadings are necessary.

3. Oral proceedings shall take place unless the parties agree to dispense with them, and the chamber consents. Even when no oral proceedings take place, the chamber may call upon the parties to supply information or furnish explanations orally.

Article 104

Judgements given by a chamber shall be read at a public sitting of that chamber.

Section F. Judgements, interpretation and revision

Subsection 1. Judgements

Article 105

1. When the Tribunal has completed its deliberations and adopted its judgement, the parties shall be notified of the date on which it will be read.

2. The judgement shall be read at a public sitting of the Tribunal and shall become binding on the parties on the day of the reading.

Article 106

1. The judgement, which shall state whether it is given by the Tribunal or by a chamber, shall contain:

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- the date on which it is read;
- the names of the judges participating in it;
- the names of the parties;
- the names of the agents, counsel and advocates of the parties;
- a summary of the proceedings;
- the submissions of the parties;
- a statement of the facts;
- the reasons in point of law;
- the operative provisions of the judgement;
- the decision, if any, in regard to costs;
- the number and names of the judges constituting the majority;
- a statement as to the text of the judgement which is authoritative.

2. Any judge may, if he so desires, attach his individual opinion to the judgement, whether he dissents from the majority or not; a judge who wishes to record his concurrence or dissent without stating his reasons may do so in the fo of a declaration. The same shall also apply to orders made by the Tribunal.

3. One copy of the judgement duly signed and sealed, shall be placed in the archives of the Tribunal and another shall be transmitted to each of the parties. Copies shall be sent by the Registrar to: (a) States Parties; (b) the Secretary-General of the United Nations; (c) the Secretary-General of the International Sea-Bed Authority; (d) in a case submitted pursuant to article 20, paragraph 2, article 21 or article 22 of the Statute, parties to such agreement.

Article 107

When by reason of an agreement reached between the parties, the written and oral proceedings have been conducted in one of the Tribunal's official languages, and pursuant to article 61 of these Rules the judgement is to be delivered in tha language, the text of the judgement in that language shall be the authoritative text.

Article 108

If the Tribunal, under article 34 of the Statute, decides that all or part c a party's costs shall be paid by the other party, it may make an order for the purpose of giving effect to that decision.

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Subsection 2. Requests for interpretation or revision of a decision

Article 109

1. In the event of a dispute as to the meaning or scope of a decision any party may make a request for its interpretation, whether the original proceedings were begun by an application or by the notification of a special agreement.

2. A request for the interpretation of a decision may be made either by an application or by the notification of a special agreement to that effect between the parties; the precise point or points in dispute as to the meaning or scope of the decision shall be indicated.

3. If the request for interpretation is made by an application, the requesting party's contentions shall be set out therein, and the other party shall be entitled to file written observations thereon within a time-limit fixed by the Tribunal, or by the President if the Tribunal is not sitting.

4. Whether the request is made by an application or by notification of a special agreement, the Tribunal may, if necessary, afford the parties the opportunity of furnishing further written or oral explanations.

Article 110

1. An application for revision of a decision may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the decision was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a decision of the Tribunal expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Tribunal may require previous compliance with the terms of the decision before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of 10 years from the date of the decision.

Article 111

1. A request for the revision of a decision shall be made by an application containing the particulars necessary to show that the conditions specified in article 110 of these Rules are fulfilled. Any document in support of the application shall be annexed to it.

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2. The other party shall be entitled to file written observations on the admissibility of the application within a time-limit fixed by the Tribunal, or by the President if the Tribunal is not sitting. These observations shall be communicated to the party making the application.

3. The Tribunal, before giving its judgement on the admissibility of the application, may afford the parties a further opportunity of presenting their vie thereon.

4. If the Tribunal finds that the application is admissible it shall fix time-limits for such further proceedings on the merits of the application as, aft ascertaining the views of the parties, it considers necessary.

5. If the Tribunal decides to make the admission of the proceedings in revision conditional on previous compliance with the decision, it shall make an order accordingly.

Article 112

1. If the decision to be revised or to be interpreted was given by the Tribunal the request for its revision or interpretation shall be dealt with by the Tribunal. If the decision was given by a chamber, the request for its revision o interpretation shall be dealt with by that chamber.

2. The decision of the Tribunal, or of the chamber, on a request for interpretation or revision of a decision shall itself be given in the form of a judgement.

Section G. Modifications proposed by the parties

Article 113

The parties to a case may jointly propose particular modifications or additions to the rules contained in the present Part (with the exception of articles 104 to 108 inclusive), which may be applied by the Tribunal or by a chamber if the Tribunal or the chamber considers them appropriate in the circumstances of the case.

Part IV

THE SEA-BED DISPUTES CHAMBER

Section A. Judges and experts of the Chamber

Subsection 1. The Members of the Chamber

Article 114

1. The Members of the Chamber are the judges selected from among the Members of the Tribunal in accordance with article 35 of the Statute.

2. In the selection of Members of the Chamber, the Tribunal shall take into account that in accordance with article 36, paragraph 2 of the Statute, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured; bearing in mind any recommendations of a general nature adopted by the Assembly of the Authority in that regard; it shall also take account of any special knowledge, expertise or previous experience which any of the Members of the Tribunal may have.

3. For the purposes of a particular case, the Chamber may also include upon the Bench one or more persons chosen under article 17 of the Statute to sit as judges *ad hoc*.

4. In these Rules, the term "Member of the Chamber" denotes any selected judge of the Chamber; the term "judge of the Chamber" denotes any Member of the Chamber, and any judge of the Chamber chosen *ad hoc*.

Article 115

1. The term of office of Members of the Chamber selected triennially shall begin to run from the (... day and month of first election ...) [7] in the year in which the vacancies to which they are selected occur.

2. The term of office of a Member of the Chamber selected to replace a Member whose term of office has not expired shall begin to run from the date of the selection.

Article 116

1. The provisions of article 3, paragraphs 1, 3 and 4 of these Rules shall apply, as between Members of the Chamber.

2. The Members of the Chamber shall, except as provided in paragraphs 3 and 4 of this article, take precedence according to the date on which their terms of office respectively began, as provided for by article 115 of these Rules.

3. In the Sea-Bed Disputes Chamber, the President of the Chamber while holding that office, shall take precedence before all other Members of the Chamber.

4. In the Sea-Bed Disputes Chamber, after the President of the Chamber, the Member of the Chamber who takes precedence in accordance with article 3, paragraphs 1 to 4, is in these Rules designated the "senior judge of the Chamber". If that Member is unable to act, the Member of the Chamber who is next after him in precedence and able to act is considered as senior judge.

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[7] This will be the date on which the terms of office of the Members of the Chamber were first selected.

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Article 117

1. In addition to the declaration to be made by every Member of the Tribunal i accordance with article 11 of the Statute and article 4 of these Rules, every Member of the Chamber shall make a declaration as follows:

> "I solemnly declare that in the performance of my duties and exercise of my powers as a member of the Sea-Bed Disputes Chamber, I shall preserve the secrecy of any confidential information coming to my knowledge by reason of membership in the Chamber."

2. This declaration shall be made at the first public sitting of the Chamber a which the Member is present. Such sitting shall be held as soon as practicable after his term of office begins and, if necessary, a special sitting shall be he for the purpose.

3. A Member of the Chamber who is selected for a second term shall make a new declaration only if his new term is not continuous with his previous one.

Subsection 2. Judges ad hoc

Article 118

1. The provisions of articles 7 and 8, paragraphs 2 and 3, of these Rules shal apply mutatis mutandis to the judges ad hoc of the Sea-Bed Disputes Chamber.

2. The solemn declarations to be made by every judge ad hoc in the Chamber sha be as set out in articles 4, paragraph 1, and 117, of these Rules.

Subsection 3. Experts

Article 119

1. The powers with respect to the appointment of experts provided for in article 9 of these Rules shall belong to the Chamber and its ad hoc chambers and the presidents thereof, and may be exercised in the same manner.

2. Before entering upon their duties, experts shall make the declaration refer to in article 9, paragraph 5, of these Rules and the following additional declaration at a public sitting:

> "I solemnly declare that in the performance of my duties when sitting with Sea-Bed Disputes Chamber I shall preserve the secrecy of any confidential information coming to my knowledge as a consequence of my sitting with the Chamber."

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Section B. The presidency of the Sea-Bed Disputes Chamber

Article 120

The provisions of articles 10 to 14 of these Rules relating to the presidency of the Tribunal shall apply, as appropriate, to the President of the Sea-Bed Disputes Chamber with respect to the Chamber.

Section C. Proceedings before the Sea-Bed Disputes Chamber

Article 121

1. Section C of Part III of these Rules shall apply to the Chamber with respect to disputes between States Parties.

2. Proceedings where one or more of the Parties is an Entity other than a State Party shall be governed by the provisions of this Section.

3. An application in accordance with article 20, paragraph 2 of the Statute shall state:

(a) The name and permanent residence of the applicant;

(b) The name of the party respondent, against whom the application is made;

(c) Any case referred to in Article 190 of the Convention, the sponsoring State;

(d) The subject-matter of the dispute and the grounds on which the application is based;

(e) The decision or measure sought by the applicant;

(f) The nature of any evidence upon which the application is founded.

4. For the purpose of the proceedings, the application shall state an address for service in the place where the Tribunal has its seat. It shall also give the name of a person who is authorized and has expressed willingness to accept service.

5. The lawyer acting for a party must lodge at the Registry a certificate that he is entitled to practise before a Court of a State Party.

6. An application made by a juridical person governed by private law shall be accompanied by:

(a) The instrument or instruments constituting and regulating that juridical person;

(b) Proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorized for the purpose.

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7. If an application does not comply with the requirements set out in paragraphs 2 to 4 and 6 of this article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them whether by putting the application itself in order or by producing any of the above-mentioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Chamber shall decide whether to reject the application on the ground of want of form.

8. The application shall be served on the respondent. In a case where paragraph 7 applies, service shall be effected as soon as the application has been put in order or the Chamber has declared it admissible notwithstanding the failure to observe the formal requirements set out in that paragraph.

9. Within one month after service of the application, the respondent shall lodge a defence, stating:

(a) The name and permanent address of the respondent;

(b). In any case referred to in Article 190 of the Convention, the sponsoring State;

(c) The matters in issue between the parties to the dispute and the grounds on which the defence is based;

(d) Any decision or measure sought by the respondent;

(e) The nature of any evidence founded upon by him.

The provisions of paragraphs 4 to 7 shall apply in a corresponding manner to the defence.

10. The time-limit laid down in paragraph 9 may be extended by the President of the Chamber on a reasoned application by the respondent.

Article 122

1. The application originating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the respondent.

2. The President shall fix the time-limits within which these pleadings are to be lodged.

3. In reply or rejoinder a party may indicate further evidence. The party must, however, give reasons for the delay in indicating it.

4. No fresh issue may be raised in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the written procedure.

5. If in the course of the written proceedings one of the parties raises a fresh issue which is so based, the President may, even after the expiry of the normal procedural time-limits, allow the other party time to answer on that issue.

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6. The decision on the admissibility of the issue shall be reserved for the final judgement.

7. The Chamber may, at any time, after hearing the parties, order that for the purpose of the written or oral proceedings or of its final judgement, a number of related cases concerning the same subject-matter shall be dealt with jointly. The decision to join the cases may be subsequently rescinded.

Article 123

1. An application under Article 185, paragraph 2, of the Convention shall be submitted to the Sea-Bed Disputes Chamber in accordance with article 121, paragraph 1 of this Section.

2. Such application shall be submitted to the Sea-Bed Disputes Chamber in accordance with Article 162, paragraph 2 (u) of the Convention, by the Secretary-General of the Authority on behalf of the Council of the International Sea-Bed Authority and shall be accompanied by a duly certified copy of the decision or resolution of the Council upon which the application is based.

3. When an application is submitted under this article, for the purposes of the proceedings before the Sea-Bed Disputes Chamber, [the Secretary-General of the Authority] shall be considered the applicant in the case. 8/

Section D. *Ad hoc* chambers of the Sea-Bed Disputes Chamber

Article 124

1. An *ad hoc* chamber of the Sea-Bed Disputes Chamber shall be formed in accordance with article 36 of the Statute when a dispute has been submitted to the Chamber at the request of any party to the dispute, in accordance with Article 188, paragraph 1 (b) of the Convention.

2. The appointment of members of the *ad hoc* chamber shall be made as soon as possible after the submission of the request as referred to in paragraph 1. The President of the Sea-Bed Disputes Chamber, after consultation with the parties, shall promptly make the appointments if the parties fail to agree on the composition of the *ad hoc* chamber or to make nominations within the time-limits to be determined by the President.

8/ The question as to whether such applications would be in the name of the Authority or of the Council would have to be decided.

Section E. Notifications for enforcement

Article 125

At the request of a party to the dispute, for the enforcement of any decision of the Sea-Bed Disputes Chamber or its ad hoc chambers against natural or juridica persons in accordance with Annex III, Article 21, paragraph 2 or Annex VI, Article 39 of the Convention, the Registrar of the Tribunal shall directly communicate a copy of the judgement or order to the Government of the State in whose territory enforcement is sought.

Part V

ADVISORY PROCEEDINGS

Article 126

1. In the exercise of its advisory functions under Article 191 of the Convention the Sea-Bed Disputes Chamber shall apply, in addition to the provisions of Article 159, paragraph 10, of the Convention, the provisions of the present Part the Rules.

2. The Sea-Bed Disputes Chamber shall be guided by the provisions of article 40, paragraph 2, of the Statute, and of these Rules which apply in disputes to the extent to which it recognizes them to be applicable. For this purpose, it shall consider whether the request for the advisory opinion relates to a legal question actually pending between two or more States Parties.

3. When an advisory opinion is requested upon a legal question actually pending between two or more States Parties, article 17 of the Statute shall apply, as als the provisions of these Rules concerning the application of that article.

Article 127

1. Questions upon which the advisory opinion of the Chamber is asked shall be laid before the Chamber by the Secretary-General of the International Sea-Bed Authority by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likel to throw light upon the question.

2. The documents referred to in paragraph 1 shall be transmitted to the Chamber at the same time as the request or as soon as possible thereafter in the number of copies required by the Registry.

Article 128

When the Assembly or Council of the International Sea-Bed Authority informs the Chamber that its request for an advisory opinion is in accordance with Article 159, paragraph 10, of the Convention or necessitates an urgent answer, the

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Chamber shall, in accordance with Article 191 of the Convention, take all necessary steps to accelerate the procedure, and it shall convene as early as possible for the purpose of proceeding to a hearing and deliberation on the request.

Article 129

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all States Parties. Any State Party may express a desire to submit a written statement or to be heard, and the Chamber will decide.

2. The Registrar shall also, by means of a special and direct communication, notify any international organization considered by the Chamber or, should it not be sitting, by the President of the Chamber, as likely to be able to furnish information on the question, that the Chamber will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. States Parties and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other States Parties or organizations in the form, to the extent and within the time-limits which the Chamber, or, should it not be sitting, by the President of the Chamber, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to States Parties and organizations having submitted similar statements.

Article 130

1. Written statements submitted to the Chamber shall be communicated by the Registrar to any States Parties or organizations which submitted such statements.

2. The Chamber, or its President if the Chamber is not sitting, shall:

(a) Determine the form in which, and the extent to which, comments committed under article 129, paragraph 3, of these Rules shall be received, and fix the time-limit for the submission of any such comments in writing;

(b) Decide whether oral proceedings shall take place at which statements and comments may be submitted to the Chamber under the provisions of article 129 of these Rules and fix the date for the opening of such oral proceedings.

Article 131

The Chamber, or its President if the Chamber is not sitting, may decide that the written statements and annexed documents shall be made accessible to the public on or after the opening of the oral proceedings. If the request for an advisory opinion relates to a legal question actually pending between two or more States Parties, the views of those States Parties shall be ascertained.

Article 132

1. When the Chamber has completed its deliberations and adopted its advisory opinion, the opinion shall be read at a public sitting of the Chamber.

2. The advisory opinion shall contain:

- the date on which it is delivered;
- the names of the judges participating;
- a summary of the proceedings;
- a statement of the facts;
- the reasons in point of law;
- the reply to the question put to the Chamber;
- the number and names of the judges constituting the majority;
- a statement as to the text of the opinion which is authoritative.

3. Any judge may, if he so desires, attach his individual opinion to the advisor opinion of the Chamber, whether he dissents from the majority or not; a judge who wishes to record his concurrence or dissent without stating his reasons may do so in the form of a declaration.

Article 133

The Registrar shall inform the Secretary-General of the International Sea-Bed Authority as to the date and the hour fixed for the public sitting to be held for the reading of the opinion. He shall also inform the representatives of the Members of the International Sea-Bed Authority, the United Nations, its specialize agencies and public international organizations immediately concerned.

Article 134

One copy of the advisory opinion, duly signed and sealed, shall be placed in the archives of the Tribunal, others shall be sent to the Secretary-General of the International Sea-Bed Authority and, where appropriate, to the Secretary-General o the United Nations. Copies shall be sent by the Registrar to the Members of the International Sea-Bed Authority and to the United Nations, its specialized agencie and public international organizations immediately concerned.

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NOTE

Since the discussion in Special Commission 4 did not provide a basis for drawing the necessary conclusions, the Draft Rules of the Tribunal do not include provisions covering cases where intergovernmental organizations (referred to in Article 305, paragraph 1 (f) of the Convention), consortia or Entities other than States are parties to a dispute. That is, the Rules do not cover organizations composed of States, consortia or other Entities whose components are of more than one nationality, whether such components be other consortia or natural or juridical persons. Appropriate rules to cover such cases would have to be formulated, in due course, based on further discussions.

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LOS/PCN/SCN.4/WP.2/Add.1
25 March 1985

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

SUPPLEMENT TO THE DRAFT RULES OF THE TRIBUNAL

(prepared by the Secretariat)

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Introduction

At the eleventh informal meeting of Special Commission 4, a request was made to the Secretariat to prepare subsidiary rules as are necessary to give effect to the relevant provisions of Article 292 of the Convention on the question of prompt release of vessels. The need for such supplementary rules was referred to on page 34 of the draft Rules of the Tribunal, document LOS/PCN/SCN.4/WP.2, by a note at the end of Subsection 1, Section D of Part III, following Article 88. For the purpose of convenience, the draft Rules are numbered as draft Articles 88A to 88E. However, this does not intend to prejudge the question as to where these draft Rules should be located.

Subsection 1.A. Prompt release of vessels and crews

Article 88.A

1. Any application made in accordance with Article 292 of the Convention for the release of a vessel or its crew from detention may be made by the flag State or on its behalf by a representative authorized under Article 46, paragraph 4, of these rules.

2. The application shall be accompanied by an authorization under Article 46, paragraph 4, of these rules, if such authorization has not been previously submitted to the Tribunal.

3. The application and the authorization shall be duly authenticated in the manner provided in Article 40, paragraph 3 of these rules.

4. The application shall specify the time and location where the detention commenced, and contain a succinct statement of the facts and the basis and reasons for requesting release. The statement of facts shall contain relevant information concerning the vessel and crew including the name, flag, and the port or place of registration of the vessel and its tonnage and other data relevant to the determination of its value; the name and address of the vessel's owner and/or operator and particulars regarding its crew. It shall also specify the amount and nature of the bond or other financial security that may have been required by the detaining State and the extent to which such requirements have been complied with. A certified copy of the application shall forthwith be transmitted by the Registrar to the detaining State.

5. The application may only be submitted to the Tribunal after the expiry of the time limit specified in paragraph 1 of Article 292 of the Convention unless the detaining State and the flag State have both agreed otherwise or unless they have accepted the jurisdiction of the Tribunal by declarations under Article 287 of the Convention.

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Article 88.B 1/

1. The Tribunal shall deal without delay with the application for release which shall have priority over all other cases.

2. The Tribunal, or the President, if the Tribunal is not sitting, shall fix a date for a hearing which will afford the parties an opportunity of being represented and submitting their oral or written observations, which shall be taken into account by the Tribunal or Chamber as the case may be.

3. The Tribunal shall, as a matter of urgency, make a determination as to the release of the vessel or its crew upon the posting of a bond or other financial security and the nature and amount thereof which shall not exceed the value of the vessel.

4. If the Tribunal is not in session, or a sufficient number of its members is not available to constitute a quorum, or if the parties so agree, the determination shall be made by the Chamber of Summary Procedure formed under Article 15, paragraph 3, of the Statute and Article 16 of these rules.

Article 88.C

1. The Tribunal or Chamber shall issue an order calling upon the detaining State to release the vessel or its crew upon the posting of such bond or other financial security as the Tribunal or Chamber has determined.

2. The Registrar shall communicate to the parties the decision of the Tribunal or Chamber.

3. The Registrar shall promptly notify the detaining State of the posting of the bond or other financial security and the order for the release of the vessel or its crew.

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[1] An appropriate reference would have to be made in Article 64, paragraph 2, of the draft Rules.

Article 88.D

Upon receipt of notification by the Tribunal from the detaining State of the release of the vessel and its crew, and upon confirmation therefore, the Tribunal shall terminate its proceedings.

Article 88.E

1. The Registrar shall transmit such bond or other financial security posted with the Tribunal to the detaining State to the extent that it is necessary to satisfy the judgment or award of the appropriate domestic forum against the vessel, its owner or its crew.

2. The bond or other financial security, to the extent that it is not necessary to satisfy the judgment or award, shall be released to the flag State.

LOS/PCN/SCN.4/WP.2/Rev.1/Part
30 June 1986

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

DRAFT RULES OF THE TRIBUNAL

PART I

Articles 1 to 93

(Prepared by the Secretariat)

/..

Explanatory note

1. In taking up the first item on its agenda, Special Commission 4 considered the procedural rules of the International Tribunal for the Law of the Sea on the basis of the working paper entitled "Draft rules of the Tribunal" prepared by the Secretariat (document LOS/PCN/SCN.4/WP.2 of 27 July 1984). After a preliminary consideration of the main issues at the first session of the Preparatory Commission, the Special Commission conducted an article-by-article examination of these draft rules at the summer meeting that same year and through the second to the fourth sessions and the intervening meetings. In examining the formulations in the draft, the Special Commission addressed the issues, the appropriate precedents (particularly that of the International Court of Justice) and the special requirements for the Tribunal. The Chairman's summary of discussions is to be found in documents LOS/PCN/SCN.4/L.1; LOS/PCN/SCN.4/L.2; LOS/PCN/SCN.4/L.2/Add.1; LOS/PCN/SCN.4/L.2/Add.1/Corr.1;, LOS/PCN/SCN.4/L.3; LOS/PCN/SCN.4/L.3/Add.1; LOS/PCN/SCN.4/L.4; LOS/PCN/SCN.4/L.4/Add.1; LOS/PCN/SCN.4/L.5; and LOS/PCN/SCN.4/L.5/Add.1.

2. These deliberations included an article-by-article review of the draft rules of procedure concerning "the prompt release of vessels and crews" (document LOS/PCN/SCN.4/WP.2/Add.1 of 25 March 1985) prepared by the Secretariat on the basis of a general discussion on the subject. They are supplementary to the draft rules of the Tribunal and an explanatory note thereon by the Secretariat is contained in document LOS/PCN/SCN.4/WP.3.

3. The Commission also carried out an exchange of views on the participation of entities other than States in cases before the Tribunal or its Sea-Bed Disputes Chamber. In this context too it reviewed the issues, the appropriate precedents and the special requirements and identified the need for, and the character of, adjustments to the working paper that would be required to cover such cases. The summary of these discussions is contained in documents LOS/PCN/SCN.4/L.1 and LOS/PCN/SCN.4/L.5/Add.1.

4. The Special Commission further examined other supplementary matters that had not been included in the draft rules and which had arisen or had been referred to in the course of discussions. This is reflected in LOS/PCN/SCN.4/L.5/Add.1.

5. At the fourth session, after completing its article-by-article reading of the draft rules, the Commission requested the Secretariat to prepare a revision thereof. In accordance with that decision the Secretariat presents the revised draft rules of the Tribunal. To expedite presentation of the document, it is divided into two parts, the first containing Part I through Part IV, section D, subsection 2, which is articles 1 through 93. The remainder of the text will be issued in the second part of the present document.

6. The revised draft is based on the discussions of the Special Commission and appropriate precedents. It also takes into account:

/...

(a) Views expressed during the deliberations;

(b) Informal suggestions made by delegations;

(c) Suggestions of a drafting nature made by delegations;

(d) Several informal compromise proposals presented by the Secretariat during the discussions.

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CONTENTS

	Article	Page
PREAMBLE		81
PART I. INTRODUCTION	1	81
PART II. THE TRIBUNAL	2 - 23	82
Section A. Members and experts	2 - 10	82
Subsection 1. Members of the Tribunal	2 - 7	82
Subsection 2. Members *ad hoc*	8 - 9	84
Subsection 3. Experts appointed under article 289 of the Convention	10	85
Section B. The presidency of the Tribunal	11 - 15	85
Section C. The Sea-Bed Disputes Chamber	16	87
Section D. Special chambers	17 - 20	87
Section E. Internal functioning of the Tribunal	21 - 23	89
PART III. THE REGISTRY	24 - 31	91
PART IV. PROCEEDINGS IN DISPUTES	32	95
Section A. Declarations, agreements, communications and notices	32 - 36	95
Subsection 1. Declarations and agreements	32 - 34	95
Subsection 2. Communications and notices	35 - 36	96
Section B. Composition of the Tribunal for particular cases	37 - 43	97
Section C. Proceedings before the Tribunal	44 - 82	100
Subsection 1. Institution of proceedings	44 - 48	100
Subsection 2. Representation of Parties	49 - 51	103
Subsection 3. Proceedings	52 - 53	103
Subsection 4. Written proceedings	54 - 63	104
Subsection 5. Oral proceedings	64 - 82	108

/...

CONTENTS (continued)

Article Page

Section D. Incidental proceedings .... 83 - 114

Subsection 1. Provisional measures .... 83 - 88 114

Subsection 2. Prompt release of vessels and crews ...... 89 - 93 115

Subsection 3. Preliminary Proceedings

Subsection 4. Preliminary Objections

Subsection 5. Counter-Claims

Subsection 6. Interventions

Subsection 7. Special References to the Tribunal

Subsection 8. Discontinuance

Section E. Proceedings before the Chambers

Section F. Judgements, Interpretation and Revision

Subsection 1. Judgements

Subsection 2. Requests for Interpretation or Revision of a Decision

Section G. Modifications Proposed by the Parties

PART V. THE SEA-BED DISPUTES CHAMBER

Section A. Judges and experts of the Chamber

Subsection 1. The Members of the Chamber

Subsection 2. Judges *ad hoc*

Subsection 3. Experts

Section B. The Presidency of the Sea-Bed Disputes Chamber

Section C. Proceedings before the Sea-Bed Disputes Chamber

Section D. *Ad Hoc* Members of the Sea-Bed Disputes Chamber

Section E. Enforcement

PART VI. ADVISORY PROCEEDINGS

(For the remaining article, see document LOS/PCN/SCN.4/WP.2/Rev.1/ Part II)

/...

Preamble

The International Tribunal for the Law of the Sea,

Having regard to the relevant provisions of the United Nations Convention on the Law of the Sea,

Having regard in particular to the Statute of the International Tribunal for the Law of the Sea, annexed thereto,

Acting in pursuance of article 16 of the Statute,

Adopts the following rules of the Tribunal, which shall come into force on ...

PART I

INTRODUCTION

Article 1

Use of terms

1. For the purposes of these rules:

(1) "Convention" means the United Nations Convention on the Law of the Sea;

(2) "Statute" means the Statute of the International Tribunal for the Law of the Sea, contained in annex VI to the Convention;

(3) "States Parties" shall have the same meaning as defined in article 1 of the Convention;

(4) "International organization" shall have the same meaning as defined in article 1 of annex IX to the Convention, unless otherwise specified;

(5) "Expert witness" means a person called at the instance of a party to a dispute or at the instance of the Tribunal to present testimony in the form of expert opinions, based on their special knowledge, skills, experience or training;

(6) "Experts" means persons appointed under article 289 of the Convention to sit with the Tribunal;

(7) "Members" means the elected members of the Tribunal as referred to in article 2 of these rules;

(8) "*Ad hoc* members" means the persons chosen under article 17 of the Statute as referred to in article 2 of these rules;

(9) "Authority" means the International Sea-Bed Authority;

(10) "Enterprise" means the organ of the Authority referred to in article 158 paragraph 2, of the Convention.

PART II

THE TRIBUNAL

Section A. Members and experts

Subsection 1. Members of the Tribunal

Article 2

1. The members of the Tribunal are elected in accordance with articles 2 to 6 of the Statute.

2. For the purposes of a particular case, the Tribunal may also include upo the bench one or more persons chosen under article 17 of the Statute to sit as members *ad hoc*.

3. In these rules, the term "*ad hoc* member of the Tribunal" denotes any person chosen under article 17 of the Statute for the purposes of a particular cas

Article 3

1. The term of office of members of the Tribunal elected at a triennial election shall begin to run from the (... day and month of first election ...) 1/ in the year in which the vacancies to which they are elected occur.

2. The term of office of a member of the Tribunal elected to replace a member whose term of office has not expired shall run from the date of the electio for the remainder of the term.

Article 4

1. The members of the Tribunal, in the exercise of their functions, are of equal status, irrespective of age, priority of election or length of service.

2. The members of the Tribunal shall, except as provided in paragraphs 4 and 5 of this article, take precedence according to the date on which their respective terms of office began, as provided for by article 3 of these rules.

1/ This will be the date on which the terms of office of the members of th Tribunal elected at the first election begins.

3. Members of the Tribunal whose terms of office began on the same date shall take precedence in relation to one another according to seniority of age.

4. A member of the Tribunal who is re-elected to a new term of office which is continuous with his previous term shall retain his precedence.

5. The President and the Vice-President of the Tribunal, while holding these offices, shall take precedence before all other members of the Tribunal.

6. The member of the Tribunal who, in accordance with the foregoing paragraphs, takes precedence next after the President and the Vice-President is in these rules designated the "senior member of the Tribunal". If that member is unable to act, the member of the Tribunal who is next after him in precedence and able to act is considered as senior member.

Article 5

1. The declaration to be made by every member of the Tribunal in accordance with article 11 of the Statute shall be as follows:

> "I solemnly declare that I will perform my duties and exercise my powers as member honourably, faithfully, impartially and conscientiously and that I shall maintain and preserve the secrecy of any confidential information coming to my knowledge as a consequence of my membership even after the expiry of my term of office."

2. This declaration shall be made at the first public sitting at which the member of the Tribunal is present. Such sitting shall be held as soon as practicable after his term of office begins and, if necessary, a special sitting shall be held for the purpose.

3. A member of the Tribunal who is re-elected shall make a new declaration only if his new term is not continuous with his previous one.

Article 6

1. A member of the Tribunal deciding to resign shall address a letter of resignation communicating his decision to the President, and the resignation shall take effect on the receipt of that letter as provided in article 5, paragraph 4, of the Statute.

2. If the member of the Tribunal deciding to resign from the Tribunal is the President, he shall address a letter of resignation communicating his decision to the Tribunal through the Vice-President, or failing him the senior member, and the resignation shall take effect on receipt of that letter as provided in article 5, paragraph 4, of the Statute.

/...

Article 7

In any case in which the application of article 9 of the Statute is under consideration, the member of the Tribunal concerned shall be so informed by the President or, if the circumstances so require, by the Vice-President, in a writte statement which shall include the grounds therefor and any relevant evidence. He shall subsequently, at a private meeting of the Tribunal specially convened for t purpose, be afforded an opportunity of making a statement, of furnishing any information or explanations he wishes to give, and of supplying answers, orally o in writing, to any questions put to him. At a further private meeting, at which the member of the Tribunal concerned shall not be present, the matter shall be discussed; each member of the Tribunal shall state his opinion, and if requested vote shall be taken.

Subsection 2. Members ad hoc

Article 8

1. Members ad hoc, chosen under article 17 of the Statute for the purposes of particular cases, shall be admitted to sit on the Bench of the Tribunal in the circumstances and according to the procedure indicated in article 19, paragraph 2 articles 40, 41, 42, article 102*, paragraph 2, and article 126*, paragraph 3 of these rules.

2. They shall participate in the examination of the case for which they ha been chosen and in the decision, on terms of complete equality with the other Members on the bench.

3. Members ad hoc shall take precedence after the elected members of the Tribunal and in order of seniority of age.

Article 9

1. The solemn declaration to be made by every member ad hoc in accordance with articles 11 and 17, paragraph 6, of the Statute shall be as set out in article 5, paragraph 1, of these rules.

2. This declaration shall be made at a public sitting in the case in whic the member ad hoc is participating. If the case is being dealt with by a chambe of the Tribunal, the declaration shall be made in the same manner in that chambe

3. Members ad hoc shall make the declaration in relation to each case in which they are participating, even if they have already done so in a previous ca but shall not make a new declaration for a later phase of the same case.

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* Asterisk denotes article number from earlier text (LOS/PCN/SCN.4/WP.2).

Subsection 3. Experts appointed under article 289 of the Convention

Article 10

1. In any dispute involving scientific or technical matters, the Tribunal may, in accordance with article 289 of the Convention, either upon the request of a party made not later than the closure of the written proceedings, or, proprio motu, decide, for the purpose of a dispute, to appoint two or more experts to sit with it without the right to vote. The Tribunal may consider a later request prior to the closure of the oral proceedings, if appropriate in the circumstances of the case.

2. When the Tribunal so decides, the President shall take steps to obtain all the information relevant to the choice of the experts and shall also consult the relevant list prepared in accordance with annex VIII, article 2, of the Convention.

3. The experts shall be selected in consultation with the parties to the dispute and chosen preferably from the relevant list referred to in paragraph 2.

4. The experts shall be appointed by secret ballot and by a majority of the votes of the members and ad hoc members composing the Tribunal for the case.

5. The same powers shall belong to the chambers provided for by article 15 of the Statute and to the presidents thereof, and may be exercised in the same manner.

6. Before entering upon their duties, experts shall make the following declaration at a public sitting:

> "I solemnly declare that I will perform my duties as an expert honourably, impartially and conscientiously, that I will faithfully observe all the provisions of the Statute and of the rules of the Tribunal, and that I shall maintain and preserve the secrecy of any confidential information coming to my knowledge as a consequence of my sitting with the Tribunal, even after the termination of my functions."

Section B. The presidency of the Tribunal

Article 11

1. The term of office of the President and that of the Vice-President of the Tribunal shall begin to run from the date on which the terms of office of the members of the Tribunal elected at a triennial election begin in accordance with article 3 of these rules.

2. The elections to the presidency and vice-presidency of the Tribunal shall be held on that date or shortly thereafter. The former President, if still a member of the Tribunal, shall continue to exercise his functions until the election to the presidency has taken place.

/...

Article 12

1. If, on the date of the election to the presidency, the former President is still a member of the Tribunal, he shall conduct the election. If he has ceased to be a member of the Tribunal, or is unable to act, the election shall be conducted by the member of the Tribunal exercising the functions of the presidency by virtue of article 14, paragraph 1, of these rules.

2. The election shall take place by secret ballot, after the presiding member of the Tribunal has declared the number of affirmative votes necessary for election; there shall be no nominations. The member of the Tribunal obtaining the votes of a majority of the members composing it at the time of the election shall be declared elected, and shall enter forthwith into his functions.

3. The new President shall conduct the election of the Vice-President eithe at the same or at the following meeting. The provisions of paragraph 2 of this article shall apply equally to this election.

Article 13

The President shall preside at all meetings of the Tribunal; he shall direct the work and supervise the administration of the Tribunal.

Article 14

1. In the event of a vacancy in the presidency or of the inability of the President to exercise the functions of the presidency, these shall be exercised by the Vice-President, or failing him, by the senior member.

2. When the President is precluded by a provision of the Statute or of thes rules either from sitting or from presiding in a particular case, he shall continu to exercise the functions of the presidency for all purposes save in respect of that case.

3. The President shall take the measures necessary in order to ensure the continuous exercise of the functions of the presidency at the seat of the Tribunal. In the event of his absence, he may, so far as is compatible with the Statute and these rules, arrange for these functions to be exercised by the Vice-President, or failing him, by the senior member.

4. If the President decides to resign the presidency, he shall communicate his decision in writing to the Tribunal through the Vice-President, or failing hi the senior member. If the Vice-President decides to resign his office, he shall communicate his decision to the President.

/

Article 15

If a vacancy in the presidency or the vice-presidency occurs before the date when the current term is due to expire under article 12, paragraph 1, of the Statute and article 11, paragraph 1, of these rules, the Tribunal shall decide whether or not the vacancy shall be filled during the remainder of the term.

Section C. The Sea-Bed Disputes Chamber

Article 16

The composition and functioning of the Sea-Bed Disputes Chamber and its ad hoc chambers shall be in accordance with section 4 of the Statute and as set out in parts V and VI of these rules. The provisions of these rules relating to proceedings before the Tribunal shall apply mutatis mutandis in proceedings before the Sea-Bed Disputes Chamber, unless otherwise provided in parts V and VI of these rules.

Section D. Special chambers

Article 17

1. The Chamber of Summary Procedure to be formed annually under article 15, paragraph 3 of the Statute shall be composed of five members of the Tribunal, comprising the President and Vice-President of the Tribunal, acting ex officio, and three other members elected in accordance with article 20, paragraph 1, of these rules. In addition, two members of the Tribunal shall be elected annually to act as substitutes.

2. The election referred to in paragraph 1 of this article shall be held as soon as possible after the (... day and month of first election ...) 2/ in each year. The members of the Chamber shall enter upon their functions on election and continue to serve until the next election: they may be re-elected.

3. If a member of the Chamber is unable, for whatever reason, to sit in a given case, he shall be replaced for the purposes of that case by the senior in precedence of the two substitutes.

4. If a member of the Chamber resigns or otherwise ceases to be a member, his place shall be taken by the senior in precedence of the two substitutes, who shall thereupon become a full member of the Chamber and be replaced by the election of another substitute. Should vacancies exceed the number of available substitutes, elections shall be held as soon as possible in respect of the vacancies still existing after the substitutes have assumed full membership and in respect of the vacancies in the substitutes.

2/ This will be the date on which the terms of office of the members of the Tribunal elected at the first election begins.

Article 18

1. When the Tribunal decides to form one or more of the standing special chambers provided for in article 15, paragraph 1, of the Statute, it shall determine the particular category of cases for which each chamber is formed, the number of its members, the period for which they will serve, the date at which they will enter upon their duties and the number of substitutes.

2. The members of these chambers shall be elected in accordance with article 20, paragraph 1, of these rules from among the members of the Tribunal, having regard to any special knowledge, expertise or previous experience which any of the members of the Tribunal may have in relation to the category of case the chamber is being formed to deal with.

3. If a member of the chamber is unable, for whatever reason, to sit in a given case, he shall be replaced for the purposes of that case by the senior in precedence of the substitutes.

4. The Tribunal may decide upon the dissolution of a chamber, but without prejudice to the duty of the chamber concerned to finish any cases pending before it.

Article 19

1. A request for the formation of an ad hoc special chamber to deal with a particular case, as provided for in article 15, paragraph 2, of the Statute, may be filed at any time until the closure of the written proceedings. Upon receipt of a request made by one party, the President shall ascertain whether the other party assents.

2. When the parties have agreed, the President shall ascertain their views regarding the composition of the chamber, and shall report to the Tribunal accordingly. He shall also take such steps as may be necessary to give effect to the provisions of article 17, paragraph 4, of the Statute.

3. The Tribunal shall designate, with the approval of the parties, the members who are to constitute the chamber. The same procedure shall be followed as regards the filling of any vacancy that may occur on the chamber.

4. Members of a chamber formed under this article who have been replaced, in accordance with article 5 of the Statute following the expiration of their terms of office, shall continue to sit in all phases of the case, whatever the stage it has then reached.

/...

Article 20

1. Elections to the chambers shall take place by secret ballot. The members of the Tribunal obtaining the largest number of votes constituting a majority of the members of the Tribunal composing it at the time of the election shall be declared elected. If there are more members of the Tribunal receiving the requisite majority than there are places, the President shall draw lots as between those with the lowest equal number of votes. If necessary to fill vacancies, more than one ballot shall take place, such ballot being limited to the number of vacancies that remain to be filled. In elections to the chambers, to the extent applicable, due regard shall be paid to the provisions of article 2, paragraph 2, of the Statute.

2. If a chamber when formed includes the President or Vice-President of the Tribunal, or both of them, the President or Vice-President, as the case may be, shall preside over that chamber. In any other event, the chamber shall elect its own president by secret ballot and by a majority of votes of its Members. The member of the Tribunal who, under this paragraph, presides over the chamber at the time of its formation shall continue to preside so long as he remains a member of that chamber.

3. The president of a chamber shall exercise, in relation to cases being dealt with by that chamber, all the functions of the President of the Tribunal in relation to cases before the Tribunal. The President of the Tribunal shall take such steps as may be necessary to give effect to the provisions of article 17, paragraph 4, of the Statute to the chambers.

4. If the president of a chamber is prevented from sitting or from acting as president, the functions of the presidency shall be assumed by the member of the chamber who is the senior in precedence and able to act.

Section E. Internal functioning of the Tribunal

Article 21

The internal judicial practice of the Tribunal shall, subject to the provisions of the Convention, the Statute and these rules, be governed by any resolutions on the subject adopted by the Tribunal. 3/

Article 22

1. The quorum specified by article 13, paragraph 1, of the Statute applies to all meetings of the Tribunal.

3/ The International Court of Justice has adopted a resolution which is now in force.

2. Members of the Tribunal shall hold themselves permanently available to exercise their functions as members of the Tribunal and shall attend at all such meetings, unless they are prevented from attending by illness, by absence on leave as provided for in paragraph 4, or for other serious reasons duly explained to the President, who shall inform the Tribunal.

3. Members ad hoc are likewise bound to hold themselves at the disposal of the Tribunal and to attend all meetings held in the case in which they are participating. They shall not be taken into account for the calculation of the quorum.

4. The Tribunal shall fix the dates and duration of the judicial vacations and the periods and conditions of leave to be accorded to individual members of the Tribunal having regard in both cases to the state of its general list and to the requirements of its current work.

5. Subject to the same considerations, the Tribunal shall observe the public holidays customary at the place where the Tribunal is sitting.

6. In case of urgency the President may convene the Tribunal at any time.

Article 23

1. The deliberations of the Tribunal shall take place in private and remain secret. The Tribunal may however at any time decide in respect of its deliberations on other than judicial matters to publish or allow publication of any part of them.

2. Only members, ad hoc members and, if the Tribunal deems necessary, any experts appointed in accordance with article 289 of the Convention and article 10 of these rules, take part in the Tribunal's judicial deliberations. The Registrar or his deputy, and other members of the staff of the Registry as may be required shall be present. No other person shall be present except by permission of the Tribunal.

3. The minutes of the Tribunal's judicial deliberations shall record only the title or nature of the subjects or matters discussed and the results of any vote taken. They shall not record any details of the discussions nor the views expressed, provided however that any member or ad hoc member is entitled to requir that a statement made by him be inserted in the minutes.

PART III

THE REGISTRY

Article 24

1. The Tribunal shall elect its Registrar by secret ballot from among candidates proposed by members of the Tribunal. The Registrar shall be elected for a term of seven years and may be re-elected.

2. The President shall give notice of a vacancy or impending vacancy to members of the Tribunal, either forthwith upon the vacancy arising, or, where the vacancy will arise on the expiration of the term of office of the Registrar, not less than three months prior thereto. The President shall fix a date for the closure of the list of candidates so as to enable nominations and information concerning the candidates to be received in sufficient time.

3. Nominations shall indicate the relevant information concerning the candidate, and in particular information as to his age, nationality, and present occupation, university qualifications, and any previous experience in law and the law of the sea, diplomacy or the work of international organizations.

4. The candidate obtaining the votes of the majority of the members of the Tribunal composing it at the time of the election shall be declared elected.

Article 25

The Tribunal shall elect a Deputy Registrar; it may also elect an Assistant Registrar, if considered necessary to carry out the functions relating to the Sea-Bed Disputes Chamber: the provisions of article 24 of these rules shall apply to their elections and terms of office.

Article 26

1. Before taking up duties, the Registrar shall make the following declaration at a meeting of the Tribunal:

> "I solemnly declare that I will perform the duties incumbent upon me as Registrar (Deputy Registrar and Assistant Registrar, as the case may be) of the International Tribunal for the Law of the Sea in all loyalty, discretion and good conscience, that I will faithfully observe all the provisions of the Statute and of the rules of the Tribunal, and that I shall maintain and preserve the secrecy of any confidential information coming to my knowledge as a consequence of holding such office, even after my separation from service."

2. The Deputy Registrar and, if appointed, the Assistant Registrar shall make similar declarations at a meeting of the Tribunal before taking up their duties.

Article 27

1. The staff members of the Registry shall be appointed by the Tribunal on proposals submitted by the Registrar. Appointments to such posts as the Tribunal shall determine may however be made by the Registrar with the approval of the President.

2. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

3. Before taking up his duties, every staff member shall make the following declaration before the President, the Registrar being present:

> "I solemnly declare that I will perform the duties incumbent upon me as an official of the International Tribunal for the Law of the Sea in all loyalty, discretion and good conscience, that I will faithfully observe all the provisions of the Statute and of the rules of the Tribunal, and that I shall maintain and preserve the secrecy of any confidential information coming to my knowledge as a consequence of holding such office, even after separation from service."

Article 28

1. The Registrar, in the discharge of his functions, shall:

(a) Be the regular channel of communications to and from the Tribunal, and in particular shall effect all communications, notifications and transmissions of documents required by the Statute or by these rules and ensure that the date of despatch and receipt thereof may be readily verified;

(b) Keep, under the supervision of the President, and in such form as may be laid down by the Tribunal, a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry;

(c) Have the custody of the declarations accepting the jurisdiction of the Tribunal made by entities other than States Parties in accordance with article 32, paragraph 2, and article 33, paragraph 2, of these rules, and transmit certified copies thereof to all States Parties, to such other States as shall have deposited declarations, and to the Secretary-General of the United Nations and the Secretary-General of the International Sea-Bed Authority. He shall also maintain duly authenticated or certified copies of all declarations, revocations or withdrawals thereof and notifications deposited with the Secretary-General of the United Nations under articles 287 and 298 of the Convention;

/...

(d) Maintain duly authenticated or certified copies of all agreements conferring jurisdiction on the Tribunal and submitted in accordance with article 33 of these rules. Copies thereof shall be transmitted to all States Parties, to the Secretary-General of the United Nations and to the Secretary-General of the International Sea-Bed Authority. Copies shall also be transmitted to such other States and to entities other than States that are parties to the agreement or agreements with respect to which such agreements have been deposited with the Registrar or declarations have been made under the terms of articles 32 and 33;

(e) Maintain copies of declarations accepting the jurisdiction of other forums for the settlement of disputes in accordance with article 287 of the Convention, article 7 of annex IX thereto, revocations thereof, and declarations of optional exceptions in accordance with article 298 of the Convention and notices of revocation or withdrawal thereof;

(f) Transmit to the parties of the dispute copies of all pleadings and documents annexed upon receipt thereof in the Registry. He shall certify the authenticity of such copies;

(g) Communicate to the Government of the State in which the Tribunal or a chamber is sitting, and any other Governments which may be concerned, the necessary information as to the persons from time to time entitled, under the relevant agreements, to privileges, immunities, or facilities;

(h) Be present, in person or by his deputy, at meetings of the Tribunal, and of the chambers, and be responsible for the preparation of minutes of such meetings. He may designate an official of the Registry to fulfil these functions at meetings of the Sea-Bed Disputes Chamber;

(i) Make arrangements for such provision or verification of translations and interpretations into the Tribunal's official languages as the Tribunal may require;

(j) Sign all judgements, advisory opinions and orders of the Tribunal and the minutes referred to in subparagraph (h);

(k) Be responsible for the reproduction, printing and publication of the Tribunal's judgements, advisory opinions and orders, the pleadings and statements, and minutes of public sittings in cases and of such other documents as the Tribunal may direct to be published;

(l) Be responsible for all administrative work and in particular for the accounts and financial administration in accordance with the financial procedures of the Tribunal;

(m) Deal with inquiries concerning the Tribunal and its work;

(n) Assist in maintaining relations between the Tribunal and the organs of the International Sea-Bed Authority, the International Court of Justice and the other organs of the United Nations, other forums for the settlement of disputes established under article 287 of the Convention, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law, in particular law of the sea;

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(o) Ensure that information concerning the Tribunal and its activities is made accessible to Governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media;

(p) Have custody of the seals and stamps of the Tribunal, of the archives of the Tribunal and of such other archives as may be entrusted to the Tribunal.

2. The Tribunal may at any time entrust additional functions to the Registrar.

3. In the discharge of his functions the Registrar shall be responsible to the Tribunal.

Article 29

1. The Deputy Registrar shall assist the Registrar, act as Registrar in the latter's absence and, in the event of the office becoming vacant, exercise the functions of Registrar until the office has been filled.

2. If both the Registrar and the Deputy Registrar are unable to carry out the duties of Registrar, the President shall appoint an official of the Registry to discharge those duties for such time as may be necessary. If both offices are vacant at the same time, the President, after consulting the members of the Tribunal, shall appoint an official of the Registry to discharge the duties of Registrar pending an election to that office.

Article 30

1. The Registry shall comprise the Registrar, the Deputy Registrar, the Assistant Registrar, if appointed, and such other staff as the Registrar shall require for the efficient discharge of his functions.

2. The Tribunal shall prescribe the organization of the Registry and shall for this purpose request the Registrar to make proposals.

3. Instructions for the Registry shall be drawn up by the Registrar and approved by the Tribunal.

4. The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, and approved by the Tribunal.

Article 31

1. The Registrar may resign from office with one month's notice tendered in writing to the President. He may be removed from office only if, in the opinion of two thirds of the members of the Tribunal, he has either become permanently incapacitated from exercising his functions or has committed a serious breach of his duties.

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2. Before a decision is taken under this article, the Registrar shall be informed by the President of the action contemplated, in a written statement which shall include the grounds therefor and any relevant evidence. He shall subsequently, at a private meeting of the Tribunal, be afforded an opportunity of making a statement, of furnishing any information or explanations he wishes to give, and of supplying answers, orally or in writing, to any questions put to him. He may be represented by counsel at such meetings.

3. The Deputy Registrar and, if appointed, the Assistant Registrar may resign from office with one month's notice tendered in writing to the President through the Registrar. They may be removed from office only on the same grounds and by the same procedure as specified in paragraphs 1 and 2.

PART IV

PROCEEDINGS IN DISPUTES

Section A. Declarations, agreements, communications and notices

Subsection 1. Declarations and agreements

Article 32

1. Duly authenticated or certified copies of declarations deposited with the Secretary-General of the United Nations accepting the jurisdiction of the Tribunal in accordance with article 287 of the Convention, article 7 of annex IX thereto and any notice of revocation thereof shall be maintained with the records of the Tribunal by the Registrar.

2. An entity other than a State Party to which the dispute settlement procedures are open in accordance with article 291, paragraph 2, of the Convention, article 20, paragraph 2, and article 21 of the Statute, and which is party to a dispute submitted to the Sea-Bed Disputes Chamber, shall make a declaration to be deposited with the Registrar that it accepts the jurisdiction of the Sea-Bed Disputes Chamber, in accordance with the Convention, and with the terms and subject to the conditions of the Statute and these rules, and undertakes to comply in good faith with the decisions of the Chamber and to accept the obligations under article 296 of the Convention.

Article 33

1. Agreements referred to in article 288, paragraph 2, of the Convention, article 20, paragraph 2, articles 21 or 22 of the Statute, accepting the jurisdiction of the Tribunal or its Sea-Bed Disputes Chamber as the case may be, whether accepting the jurisdiction generally in respect of all disputes or of a particular category or categories of disputes which have already arisen, or which may arise in the future, or whether accepting the jurisdiction of the Tribunal especially in respect only of a particular dispute or disputes which have already arisen, shall be deposited with the Registrar. For this purpose, duly authenticated or certified copies of such agreements may be so deposited.

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2. A State which is not a State Party but is a party to such an agreement conferring jurisdiction on the Tribunal shall make a declaration to be deposited with the Registrar, that it accepts the jurisdiction of the Tribunal or its Sea-Bed Disputes Chamber, in accordance with the Convention, and with the terms and subject to the conditions of the Statute and these rules and with the agreement conferring jurisdiction, and undertakes to comply in good faith with the decisions of the Tribunal and to accept the obligations under article 296 of the Convention. Such a declaration shall not be required if the agreement contains express provisions fulfilling the conditions of such declarations.

3. An entity other than a State which is a party to such an agreement conferring jurisdiction on the Tribunal, and to which the dispute settlement procedures are open in accordance with article 291, paragraph 2, of the Convention, article 20, paragraph 2, and article 21 of the Statute shall make a declaration to be deposited with the Registrar, that it accepts the jurisdiction of the Sea-Bed Disputes Chamber, in accordance with the Convention, and with the terms and subject to the conditions of the Statute and these rules, and undertakes to comply in good faith with the decisions of the Chamber and to accept all the obligations under article 296 of the Convention. Such a declaration shall not be necessary if the agreement contains express provisions fulfilling the conditions of such declarations.

Article 34

1. The original declarations made under the terms of articles 32, paragraph 2, and 33, paragraphs 2 and 3, and the copies of agreements referred to in article 33 of these rules shall, in accordance with the practice of the Tribunal, be kept in the custody of the Registrar and copies thereof transmitted to all States Parties, to the Secretary-General of the United Nations and to the Secretary-General of the International Sea-Bed Authority. Copies shall also be transmitted to such other States and to entities other than States that are parties to the agreement or agreements, with respect to which such agreements have been deposited with the Registrar or declarations have been made under the terms of articles 32 and 33.

2. All questions as to the validity or the effect of a declaration made or agreements deposited under the terms of articles 32 and 33 shall be decided by the Tribunal or its Sea-Bed Disputes Chamber as the case may be.

Subsection 2. Communications and notices

Article 35

All communications to the Tribunal under these rules shall be addressed to the Registrar unless otherwise stated. Any request made by a party shall likewise be addressed to the Registrar unless made in open court in the course of the oral proceedings.

Article 36

1. For the service of all notices upon persons, natural or juridical, other than the agents, counsel, and advocates, the Tribunal shall apply direct to the Government of the State upon whose territory the notice has to be served.

2. For the service of notices upon entities other than States, in the case of intergovernmental organizations, the International Sea-Bed Authority or the Enterprise, the Tribunal shall direct all communication to the competent body or executive head of such organization at its headquarters location; in the case of entities referred to in article 153, paragraph 2(b), of the Convention, the Tribunal shall apply direct to the Government of the sponsoring State referred to in that article; and in the case of entities referred to in resolution II, paragraph 1(a)(ii), to the Government of the certifying State referred to in paragraph 1(c) thereof.

3. The same provisions shall apply whenever steps are to be taken to procure evidence on the spot.

Section B. Composition of the Tribunal for particular cases

Article 37

1. If the President of the Tribunal is a national of one of the parties, a national of a member State of an international organization which is a party, or of the same nationality as an entity other than a State which is a party in a case, he shall not exercise the functions of the presidency in respect of that case. The same rule applies to the Vice-President, or to the senior member, when called on to act as President.

2. The member of the Tribunal who is presiding in a case on the date on which the Tribunal convenes for the oral proceedings shall continue to preside in that case until completion of the current phase of the case, notwithstanding the election in the meantime of a new President or Vice-President. If he should become unable to act, the presidency for the case shall be determined in accordance with article 14 of these rules, and on the basis of the composition of the Tribunal on the date on which it convenes for the oral proceedings.

Article 38

Except as provided in article 19 of these rules, members of the Tribunal who have been replaced, in accordance with article 5, paragraph 3, of the Statute following the expiration of their terms of office, shall discharge the duty imposed upon them by that paragraph by continuing to sit until the completion of any phase of a case in respect of which the Tribunal convenes for the oral proceedings prior to the date of such replacement.

Article 39

1. In case of any doubt arising as to the application of article 8, paragraph 1, of the Statute or in case of a disagreement between the member concerned and the President as to the application of article 8, paragraphs 2 and 3, of the Statute, the President shall inform the members of the Tribunal. The matter shall be settled by the decision of the majority of the other members present in accordance with article 8, paragraph 4, of the Statute.

2. If a party desires to bring to the attention of the Tribunal facts which it considers to be of possible relevance to the application of the provisions of the Statute referred to in paragraph 1, but which it believes may not be known to the Tribunal, that party shall communicate confidentially such facts to the President in writing.

Article 40

1. If a party proposes to exercise the power conferred by article 17 of the Statute to choose a member ad hoc in a case, it shall notify the Tribunal of its intention as soon as possible. If the name and nationality of the member selected are not indicated at the same time, the party shall, not later than two months before the time-limit fixed for the filing of the counter-memorial, inform the Tribunal of the name and nationality of the person chosen and supply brief biographical details. The member ad hoc may be of a nationality other than that of the party which chooses him.

2. If a party proposes to abstain from choosing a member ad hoc, on condition of a like abstention by the other party, it shall so notify the Tribunal which shall inform the other party. If the other party thereafter gives notice of its intention to choose, or chooses, a member ad hoc, the time-limit for the party which has previously abstained from choosing a member may be extended up to 30 days by the President.

3. A copy of any notification relating to the choice of a member ad hoc shall be communicated by the Registrar to the other party, which shall be requested to furnish, within a time-limit not exceeding 30 days to be fixed by the President, such observations as it may wish to make. If within the said time-limit no objection is raised by the other party, and if none appears to the Tribunal itself, the parties shall be so informed.

4. In the event of any objection or doubt, the matter shall be decided by the Tribunal, if necessary after hearing the parties.

5. A member ad hoc who has accepted appointment but who becomes unable to sit may be replaced in the same manner as laid down for appointments under the foregoing paragraphs subject to such time-limits as may be fixed by the President.

6. If and when the reasons for the participation of a member ad hoc are found no longer to exist, he shall cease to sit on the bench.

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Article 41

1. If the Tribunal finds that two or more parties are in the same interest, and therefore are to be reckoned as one party only, and that there is no member of the Tribunal of the nationality of any one of these parties upon the bench, the Tribunal shall fix a time-limit within which they may jointly choose a member ad hoc.

2. Should any party amongst those found by the Tribunal to be in the same interest allege the existence of a separate interest of its own, or put forward any other objection, the matter shall be decided by the Tribunal, if necessary after hearing the parties.

Article 42

1. If a member of the Tribunal having the nationality of one of the parties is or becomes unable to sit in any phase of a case, that party shall thereupon become entitled to choose a member ad hoc within a time-limit to be fixed by the Tribunal, or by the President if the Tribunal is not sitting.

2. Parties in the same interest shall be deemed not to have a member of one of their nationalities upon the bench if the member of the Tribunal having one of their nationalities is or becomes unable to sit in any phase of the case.

3. If the member of the Tribunal having the nationality of a party becomes able to sit not later than the closure of the written proceedings in that phase of the case, that member of the Tribunal shall resume his seat on the bench in the case.

Article 43

1. For the purpose of exercising the power conferred by article 17 of the Statute, the Authority or the Enterprise and any other international organization of a universal character shall not be considered as having a nationality and members of the Tribunal shall not be considered as being of the same nationality as any member State of such an organization for the purpose of applying articles 40 to 42 of these rules. Such an organization may exercise the power to appoint an ad hoc member of any nationality it chooses.

2. Articles 40 to 42 shall, subject to paragraphs 3 to 5 hereunder, apply mutatis mutandis to an international organization that is not of a universal character and to entities other than States having more than one nationality, as in the case of a partnership or consortium of entities from several States or entities effectively controlled by more than one State or its nationals.

3. Where an international organization that is not of a universal character is a party to a case, and one or more of the members of the Tribunal constituted for the case is a national or are nationals of the States members of such

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international organization, then such organization may not exercise the power conferred by article 17 of the Statute to appoint a member ad hoc and the other party may appoint ad hoc members in a corresponding number which shall include any member of the Tribunal of its nationality sitting with the bench constituted for that case.

4. Should an international organization allege the existence of separate interests between any of its member States whose nationals are upon the bench, and the interest of the organization for the purpose of the case, then the matter shall be decided by the other members of the Tribunal who are not of the nationality of States member of the organization, if necessary after hearing the parties. The appointment of ad hoc members by the other party under paragraph 3 shall be reduced by a number corresponding to the different interests determined by the Tribunal.

5. Where an entity other than a State having more than one nationality, as in the case of a partnership or consortium of entities from several States, or entities effectively controlled by more than one State or its nationals, is party to a case, then if one or more of the members of the Tribunal constituted for the case is of any of those nationalities, such party may not exercise the power to appoint a member ad hoc and the other party may appoint ad hoc members in a corresponding number which shall include any member of the Tribunal of its nationality sitting with the bench constituted for that case.

6. In any case referred to in paragraphs 3 or 5 above, the international organization or other entity may request that any member or members of the Tribunal of the same nationality as its member States or component entities be not included in the composition of the bench for the case.

Section C. Proceedings before the Tribunal

Subsection 1. Institution of proceedings

Article 44

1. When proceedings before the Tribunal are instituted by means of an application addressed as specified in article 24, paragraph 1, of the Statute, the application shall indicate the party making it, the party against which the claim is brought, and the subject of the dispute.

2. The application shall specify the legal grounds upon which the jurisdiction of the Tribunal is said to be based; it shall also specify the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based.

3. The original of the application shall be signed either by the agent of the party submitting it, or by the diplomatic representative of that party in the country in which the Tribunal has its seat, or by some other duly authorized person. If the application bears the signature of someone other than such diplomatic representative, the signature must be authenticated by the latter or by the competent authority for foreign affairs.

4. The Registrar shall forthwith transmit to the respondent a certified copy of the application.

5. Subject to section 3 of part XV, article 288, paragraph 4, and article 294 of the Convention and article 90 of these rules, when the applicant has made a declaration accepting the jurisdiction of the Tribunal and proposes to obtain the agreement of the other party to the dispute in accordance with article 287, paragraphs 4 or 5, of the Convention, and to found the jurisdiction of the Tribunal upon a declaration accepting jurisdiction yet to be made by the latter party, the application shall be transmitted to that party. It shall not however be entered in the general list, nor any action be taken in the proceedings, unless and until the party against which such application is made declares that it accepts the jurisdiction for the purposes of the case, subject to any qualifications included in that declaration.

6. When proceedings are instituted by entities other than States Parties as provided in the Convention, the provisions of part V shall apply as appropriate.

Article 45

1. When proceedings are brought before the Tribunal by the notification of a special agreement, in conformity with article 24, paragraph 1, of the Statute, the notification may be effected by the parties jointly or by any one or more of them. If the notification is not a joint one, a certified copy of it shall forthwith be communicated by the Registrar to the other party.

2. In each case the notification shall be accompanied by an original or certified copy of the special agreement, unless it has previously been transmitted to the other party in accordance with article 34 of these rules. The notification shall also, in so far as this is not already apparent from the agreement, indicate the precise subject of the dispute and identify the parties to it.

Article 46

1. All steps on behalf of the parties after proceedings have been instituted shall be taken by agents. This shall not apply in the circumstances contemplated by article 44, paragraph 5, of these rules unless, and until jurisdiction has been accepted by the party against which the application is made. Agents shall have an address for service at the seat of the Tribunal to which all communications concerning the case are to be sent. Communications addressed to the agents of the parties shall be considered as having been addressed to the parties themselves.

2. When proceedings are instituted by means of an application, the name of the agent for the applicant shall be stated. The respondent, upon receipt of the certified copy of the application, or as soon as possible thereafter, shall inform the Tribunal of the name of its agent.

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3. When proceedings are brought by notification of a special agreement, the party making the notification shall state the name of its agent. Any other party to the special agreement, upon receiving from the Registrar a certified copy of such notification, or as soon as possible thereafter, shall inform the Tribunal of the name of its agent if it has not already done so.

Article 47

1. The institution of proceedings by an entity which is not a State Party but which has accepted the jurisdiction of the Tribunal by a declaration made in accordance with article 31 of these rules shall be accompanied by a deposit of the declaration in question, unless the latter has previously been deposited with the Registrar. If any question of the validity or effect of such declaration arises, the Tribunal shall decide.

2. An application by an international organization shall be accompanied by the relevant declarations and notifications under articles 4, 5 and 7 of annex IX to the Convention, or duly authenticated copies thereof, on the basis of which it claims competence on behalf of its member States which are States Parties, over the subject-matter of the dispute.

3. If any question of the validity or effect of such a declaration or notification arises, the Tribunal or Sea-Bed Disputes Chamber, as the case may be, shall decide.

4. When in an application by an international organization, any question arises as to whether the international organization has competence over the subject-matter of the dispute, on the request of the respondent or proprio motu, the Tribunal or Chamber may request the international organization and its member States concerned to provide further information. If the question is not resolved on the basis of such information, further proceedings shall be suspended until the issue is resolved under the framework of the organization concerned and communicated accordingly to the Tribunal.

Article 48

Whenever the interpretation or application of an international agreement related to the purposes of the Convention to which States other than those concerned in the case are parties may be in question within the meaning of article 288, paragraph 2, of the Convention, or of articles 21 and 22, of the Statute, the Tribunal shall consider what directions shall be given to the Registrar in the matter.

Subsection 2. Representation of parties

Article 49

1. The parties shall be represented by agents.

2. They may have the assistance of counsel or advocates before the Tribunal.

3. A State Party may at any time notify the Tribunal by an official communication as to who is authorized to act on its behalf for the purposes of proceedings under article 292 of the Convention.

Article 50

1. Agents representing a party to proceedings before the Tribunal as well as counsel and advocates, appearing before the Tribunal shall, in the interests of the proper conduct of its proceedings, enjoy the privileges and immunities necessary for the independent exercise of their duties in accordance with the practice of international courts and tribunals and the relevant arrangements and agreements.

2. The Tribunal may direct the Registrar to take such measures as may be required for these purposes.

Article 51

1. Any counsel or advocate whose conduct towards the Tribunal, a chamber, a member or the Registrar is incompatible with the dignity of the Tribunal or who uses his rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order of the Tribunal or chamber; the person concerned shall first be informed by the President of the grounds therefor and shall be afforded an opportunity to defend himself by making a statement or furnishing an explanation he wishes to give. The order shall have immediate effect.

2. Where a counsel or advocate is excluded from the proceedings, further proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another counsel or advocate.

3. Orders made under this article may be rescinded.

Subsection 3. Proceedings

Article 52

1. The proceedings shall consist of two parts: written and oral.

2. The written proceedings shall consist of the communication to the Tribunal and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.

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3. These communications shall be made through the Registrar, in the order and within the time fixed by the Tribunal.

4. A certified copy of every document produced by one party shall be communicated by the Registrar to the other party upon receipt.

5. The oral proceedings shall consist of the hearing by the Tribunal of witnesses, experts, agents, counsel and advocates.

Article 53

In every case submitted to the Tribunal, the President shall ascertain the views of the parties with regard to questions of procedure. For this purpose he shall summon the agents of the parties to meet him as soon as possible after their appointment, and whenever necessary thereafter.

Subsection 4. Written proceedings

Article 54

1. In the light of the information obtained by the President under article 53 of these rules, the Tribunal shall make the necessary orders to determine, inter alia, the number and the order of filing of the pleadings and the time-limits within which they must be filed.

2. In making an order under paragraph 1 of this article, any agreement between the parties which does not cause unjustified delay shall be taken into account.

3. The Tribunal may, at the request of the party concerned, extend any time-limit, or decide that any step taken after the expiration of the time-limit fixed therefor shall be considered as valid, if it is satisfied that there is adequate justification for the request. In either case the other party shall be given an opportunity to state its views.

4. If the Tribunal is not sitting, its powers under this article shall be exercised by the President, but without prejudice to any subsequent decision of the Tribunal. If the consultation referred to in article 53 reveals persistent disagreement between the parties as to the application of article 55, paragraph 2, and of article 56, paragraph 2, of these rules, the Tribunal shall be convened to decide the matter.

Article 55

1. The pleadings in a case begun by means of an application shall consist, in the following order, of: a memorial by the applicant; a counter-memorial by the respondent.

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2. The Tribunal may authorize or direct that there shall be a reply by the applicant and a rejoinder by the respondent if the parties are so agreed, or if the Tribunal decides, proprio motu or at the request of one of the parties, that these pleadings are necessary.

Article 56

1. In a case begun by the notification of a special agreement, the number and order of the pleadings shall be governed by the provisions of the agreement, unless the Tribunal, after ascertaining the views of the parties, decides otherwise.

2. If the special agreement contains no such provision, and if the parties have not subsequently agreed on the number and order of pleadings, they shall each file a memorial and counter-memorial, within the same time-limits. The Tribunal shall not authorize the presentation of replies unless it finds them to be necessary.

Article 57

The Tribunal may at any time direct that the proceedings in two or more cases be joined. It may also direct that the written or oral proceedings, including the calling of witnesses, be in common; or the Tribunal may, without effecting any formal joinder, direct common action in any of these respects.

Article 58

Time-limits for the completion of steps in the proceedings may be fixed by assigning a specified period but shall always indicate definite dates. Such time-limits shall be as short as the character of the case permits.

Article 59

1. A memorial shall contain a statement of the relevant facts, a statement of law, and the submissions.

2. A counter-memorial shall contain: an admission or denial of the facts stated in the memorial; any additional facts, if necessary; observations concerning the statement of law in the memorial; a statement of law in answer thereto; and the submissions.

3. The reply and rejoinder, whenever authorised by the Tribunal, shall not merely repeat the parties' contentions, but shall be directed to bringing out the issues that still divide them.

4. Every pleading shall set out the party's submissions at the relevant stage of the case, distinctly from the arguments presented, or shall confirm the submissions previously made.

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Article 60

1. There shall be annexed to the original of every pleading certified copies of any relevant documents adduced in support of the contentions contained in the pleading.

2. If only parts of a document are relevant, only such extracts as are necessary for the purpose of the pleading in question need be annexed. A copy of the whole document shall be deposited in the Registry, unless it has been published and is readily available.

3. A list of all documents annexed to a pleading shall be furnished at the time the pleading is filed.

Article 61

1. If the parties are agreed that the written proceedings shall be conducted wholly in one of the official languages of the Tribunal, 4/ the pleadings shall be submitted only in that language. If the parties are not so agreed, any pleading or any part of a pleading shall be submitted in one or other of the official languages.

2. If the parties agree that the case shall be conducted in one of the official languages, the judgement shall be delivered in that language which shall be authoritative.

3. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the judgement of the Tribunal shall be given in at least (...) 4/ of the official languages. In this case the Tribunal shall at the same time determine which of the texts shall be considered as authoritative.

4. The Tribunal shall, at the request of any party, authorize a language other than an official language to be used by that party.

5. If a language other than the official languages is used, a translation into one of the official languages, certified as accurate by the party submitting it shall be attached to the original of each pleadings.

6. When a document annexed to a pleading is not in one of the official languages of the Tribunal, it shall be accompanied by a translation into one of these languages certified by the party submitting it as accurate. The translation may be confined to part of an annex, or to extracts therefrom, but in this case it

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4/ There would need to be a decision taken by the Meeting of States Parties as to what will be the official languages of the Tribunal; and in the absence of agreement between parties to a dispute as to which language should be employed, the number of languages in which the judgement will be given.

must be accompanied by an explanatory note indicating what passages are translated. The Tribunal may however require a more extensive or a complete translation to be furnished.

Article 62 5/

1. The original of every pleading shall be signed by the agent and filed in the Registry. It shall be accompanied by a certified copy of the pleading, documents annexed, and any translations, for communication to the other party by the Registrar and by the number of additional copies required by the Registry, but without prejudice to an increase in that number should the need arise later.

2. All pleadings shall be dated. When a pleading has to be filed by a certain date, it is the date of receipt of the pleading in the Registry which will be regarded by the Tribunal as the material date.

3. If the Registrar arranges for the reproduction of a pleading at the request of a party, the text must be supplied in sufficient time to enable the pleading to be filed in the Registry before expiration of any time-limit which may apply to it. The reproduction is done under the responsibility of the party in question.

4. The correction of a slip or error in any document which has been filed may be made at any time with the consent of the other party or by leave of the President. Any correction so effected shall be notified to the other party in the same manner as the pleading to which it relates.

Article 63

1. The Tribunal, or the President if the Tribunal is not sitting, may at any time decide, after ascertaining the views of the parties to the dispute, that copies of the pleadings and documents annexed shall be made available to a State Party or to an entity other than a State Party which is entitled to appear before it in accordance with article 20, paragraph 2, of the Statute, which has asked to be furnished with such copies.

2. The Tribunal may, after ascertaining the views of the parties, decide that copies of the pleadings and documents annexed shall be made accessible to the public on or after the opening of the oral proceedings.

5/ The agents of the parties are requested to ascertain from the Registry the usual format of the pleadings, and the conditions on which the Tribunal may bear part of the cost of reproduction.

Subsection 5. Oral proceedings

Article 64

1. Upon the closure of the written proceedings, the case is ready for hearing. The date for the opening of the oral proceedings shall be fixed by the Tribunal, which may also decide, if occasion should arise, that the opening or the continuance of the oral proceedings be postponed.

2. When fixing the date for, or postponing, the opening of the oral proceedings the Tribunal shall have regard to the priority required by article 84 and 90 of these rules and to any other special circumstances, including the urgency of a particular case and the views of the parties.

3. When the Tribunal is not sitting, its powers under this article shall be exercised by the President.

Article 65

The Tribunal may, if it considers it desirable, decide pursuant to article 1, paragraph 3, of the Statute that all or part of the further proceedings in a case shall be held at a place other than the seat of the Tribunal. Before so deciding, it shall ascertain the views of the parties.

Article 66

1. After the closure of the written proceedings, no further documents may be submitted to the Tribunal by either party except with the consent of the other party or as provided in paragraph 2 of this article. The party desiring to produce a new document shall file the original or a certified copy thereof, together with the number of copies required by the Registry, which shall be responsible for communicating it to the other party and shall inform the Tribunal. The other party shall be held to have given its consent if it does not lodge an objection to the production of the document.

2. In the absence of consent, the Tribunal, after hearing the parties, may, if it considers the document necessary, authorize its production.

3. If a new document is produced under paragraph 1 or paragraph 2 of this article, the other party shall have an opportunity of commenting upon it and of submitting documents in support of its comments.

4. No reference may be made during the oral proceedings to the contents of any document which has not been produced in accordance with article 52 or this article, unless the document is part of a publication readily available.

5. The application of the provisions of this article shall not in itself constitute a ground for delaying the opening or the course of the oral proceedings.

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Article 67

Without prejudice to the provisions of the rules concerning the production of documents, each party shall communicate to the Registrar, in sufficient time before the opening of the oral proceedings, information regarding any evidence which it intends to produce or which it intends to request the Tribunal to obtain. This communication shall contain a list of the surnames, first names, nationalities, descriptions and places of residence of the witnesses and expert witnesses whom the party intends to call, with indications in general terms of the point or points to which their evidence will be directed. A copy of the communication shall also be furnished for transmission to the other party.

Article 68

1. The Tribunal shall determine whether the parties should present their arguments before or after the production of the evidence; the parties shall, however, retain the right to comment on the evidence given.

2. The order in which the parties will be heard, the method of handling the evidence and of examining any witnesses and expert witnesses, and the number of counsel and advocates to be heard on behalf of each party, shall be settled by the Tribunal after the views of the parties have been ascertained in accordance with article 53 of these rules.

Article 69

The hearing in the Tribunal shall, in accordance with article 26 of the Statute, paragraph 2, be public, unless the Tribunal shall decide otherwise, or unless the parties demand that the public be not admitted. Such a decision or demand may concern either the whole or part of the hearing, and may be made at any time.

Article 70

1. The oral statements made on behalf of each party shall be as succinct as possible within the limits of what is requisite for the adequate presentation of that party's contentions at the hearing. Accordingly, they shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain.

2. At the conclusion of the last statement made by a party at the hearing, its agent, without recapitulation of the arguments, shall read that party's final submissions. A copy of the written text of these, signed by the agent, shall be communicated to the Tribunal and transmitted to the other party.

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Article 71

1. The Tribunal may at any time prior to or during the hearing indicate any points or issues to which it would like the parties specially to address themselves, or on which it considers that there has been sufficient argument.

2. The Tribunal may, during the hearing, put questions to the agents, counsel and advocates, and may ask them for explanations.

3. Each judge has a similar right to put questions, but before exercising i he should make his intention known to the President, who is made responsible by article 26, paragraph 1, of the Statute for the control of the hearing.

4. The agents, counsel and advocates may answer either immediately or within a time-limit fixed by the President.

Article 72

1. The Tribunal may at any time call upon the parties to produce such evidence or to give such explanations as the Tribunal may consider to be necessary for the elucidation of any aspect of the matters in issue, or may itself seek other information for this purpose.

2. The Tribunal may, if necessary, arrange for the attendance of a witness or expert witness to give evidençe in the proceedings.

Article 73

1. The parties may call any witnesses or expert witnesses appearing on the list communicated to the Tribunal pursuant to article 67 of these rules. If at any time during the hearing a party wishes to call a witness or expert witness whose name was not included in that list, it shall so inform the Tribunal and the other party, and shall supply the information required by article 67. The witness or expert witness may be called either if the other party makes no objection or if the Tribunal is satisfied that his evidence seems likely to prove relevant.

2. The Tribunal, or the President if the Tribunal is not sitting, shall, at the request of one of the parties or proprio motu, take the necessary steps for the examination of witnesses otherwise than before the Tribunal itself.

Article 74

Unless on account of special circumstances the Tribunal decides on a different form of words,

(a) Every witness shall make the following declaration before giving any evidence:

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> "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth";

(b) Every expert witness shall make the following declaration before making any statement:

> "I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth, and that my statement will be in accordance with my sincere belief."

Article 75

Witnesses and expert witnesses shall, under the control of the President, be examined by the agents, counsel or advocates of the parties. Questions may be put to them by the President and by the members. Before testifying, witnesses shall remain out of court.

Article 76

The Tribunal may at any time decide, either *proprio motu* or at the request of a party, to exercise its functions with regard to the obtaining of evidence at a place or locality to which the case relates, subject to such conditions as the Tribunal may decide upon after ascertaining the views of the parties. The necessary arrangements shall be made in accordance with article 36 of these rules.

Article 77

1. If the Tribunal considers it necessary to arrange for an inquiry or an expert opinion, it shall, after hearing the parties, issue an order to this effect, defining the subject of the inquiry or expert opinion, stating the number and mode of appointment of the persons to hold the inquiry or of the expert witnesses and laying down the procedure to be followed. Where appropriate, the Tribunal shall require persons appointed to carry out an inquiry, or to give an expert opinion, to make a solemn declaration.

2. Every report or record of an inquiry and every expert opinion shall be communicated to the parties, which shall be given the opportunity of commenting upon it.

Article 78

1. Witnesses and expert witnessess who attend at the instance of the Tribunal under article 72, paragraph 2, and persons appointed by the Tribunal under article 77, paragraph 1, of these rules, to carry out an inquiry or to give an expert opinion, shall, where appropriate, be paid out of the funds of the Tribunal.

Article 79

1. The Tribunal may, at any time prior to the closure of the oral proceedings, either proprio motu or at the request of one of the parties communicated as provided in article 67 of these rules, request an appropriate international organization referred to in paragraph 4 of this article to furnish information relevant to a case before it. The Tribunal, after consulting the chief administrative officer of the organization concerned, shall decide whether such information shall be presented to it orally or in writing, and the time-limits for its presentation.

2. When such an international organization sees fit to furnish, on its own initiative, information relevant to a case before the Tribunal, it shall do so in the form of a Memorial to be filed in the Registry before the closure of the written proceedings. The Tribunal shall retain the right to require such information to be supplemented, either orally or in writing, in the form of answers to any questions which it may see fit to formulate, and also to authorize the parties to comment, either orally or in writing, on the information thus furnished.

3. Whenever the construction of the constituent instrument of such an international organization or of an international convention adopted thereunder is in question in a case before the Tribunal, the Registrar shall, on the instructions of the Tribunal, or of the President if the Tribunal is not sitting, so notify the international organization concerned and shall communicate to it copies of all the written proceedings. The Tribunal, or the President if the Tribunal is not sitting, may, as from the date on which the Registrar has communicated copies of the written proceedings and after consulting the chief administrative officer of the international organization concerned, fix a time-limit within which the organization may submit to the Tribunal its observations in writing. These observations shall be communicated to the parties and may be discussed by them and by the representative of the said organization during the oral proceedings.

4. In the foregoing paragraphs, the term "international organization" denotes an international organization constituted by States, with the exception of those organizations referred to in article 1(4) of these rules.

Article 80

1. In the absence of any decision to the contrary by the Tribunal, all speeches and statements made and evidence given at the hearing in one of the official languages of the Tribunal shall be interpreted into the other official languages. If they are made or given in any other language, they shall be interpreted into the official languages of the Tribunal.

2. Whenever, in accordance with article 61, paragraph 4, of these rules, a language other than an official language is used, the necessary arrangements for interpretation into one of the official languages shall be made by the party concerned; however, the Registrar shall make arrangements for the verification of the interpretation provided by a party of evidence given on the party's behalf. In the case of witnesses or expert witnesses who appear at the instance of the Tribunal, arrangements for interpretation shall be made by the Registrar.

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3. A party on behalf of which speeches or statements are to be made, or evidence given, in a language which is not one of the official languages of the Tribunal, shall so notify the Registrar in sufficient time for him to make the necessary arrangements, including verification.

4. Before first interpreting in the case, interpreters provided by a party shall make the following declaration:

> "I solemnly declare upon my honour and conscience that my interpretation will be faithful and complete."

Article 81

1. Minutes shall be made at each hearing and signed by the Registrar and the President. For this purpose, a verbatim record shall be made by the Registrar of every hearing, in the official language of the Tribunal which has been used. When the language used is not one of the official languages of the Tribunal, the verbatim record shall be prepared in one of the Tribunal's official languages.

2. When speeches or statements are made in a language which is not one of the official languages, the party on behalf of which they are made shall supply to the Registry in advance a text thereof in one of the official languages, and this text shall constitute the relevant part of the verbatim record.

3. The transcript of the verbatim record shall be preceded by the names of the members and ad hoc members present, and those of the agents, counsel and advocates of the parties.

4. Copies of the transcript shall be circulated to the members and ad hoc members sitting in the case, and to the parties. The latter may, under the supervision of the Tribunal, correct the transcripts of speeches and statements made on their behalf, but in no case may such corrections affect the sense and bearing thereof. The members and ad hoc members may likewise make corrections in the transcript of anything they may have said. One certified true copy of the eventual corrected transcript, signed by the President and the Registrar, shall constitute the authentic minutes of the sitting.

5. Witnesses and expert witnesses shall be shown that part of the transcript which relates to the evidence given, or the statements made by them, and may correct it in like manner as the parties.

6. The minutes of public hearings shall be printed and published by the Tribunal.

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Article 82

Any written reply by a party to a question put under article 71, or any evidence or explanation supplied by a party under article 72 of these rules, received by the Tribunal after the closure of the oral proceedings, shall be communicated to the other party, which shall be given the opportunity of commenting upon it. If necessary the oral proceedings may be reopened for that purpose.

Section D. Incidental proceedings

Subsection 1. Provisional measures

Article 83

1. A written request for the prescription of provisional measures by the Tribunal or the Sea-Bed Disputes Chamber may be made by a party at any time in accordance with paragraphs 1 or 5 of article 290 of the Convention.

2. The request shall specify the reasons therefor, the possible consequences if it is not granted, and the measures requested. A certified copy shall forthwith be transmitted by the Registrar to the other party.

Article 84

1. A request for the prescription of provisional measures shall have priority over all other cases. This shall not affect applications under article 292 of the Convention which shall be dealt with without delay.

2. If the Tribunal is not in session or if a sufficient number of its members is not available to constitute a quorum, the Chamber of Summary Procedure formed under article 15, paragraph 3, of the Statute and article 17 of these rules shall be convened forthwith for the purpose of proceeding to a decision on the request as a matter of urgency.

3. The Tribunal, or the President if the Tribunal is not sitting, shall fix a date for a hearing which will afford the parties an opportunity of being represented at it. The Tribunal or Chamber of summary procedure as the case may be, shall receive and take into account any observations that may be presented to it before the closure of the oral proceedings.

4. Pending the meeting of the Tribunal or Chamber, the President may call upon the parties to act in such a way as will enable any order the Tribunal or Chamber may make on the request for provisional measures to have its appropriate effects.

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Article 85

The rejection of a request for the prescription of provisional measures shall not prevent the party which made it from making a fresh request in the same case based on new facts.

Article 86

Any application by a party in accordance with article 290, paragraph 3, of the Convention requesting the modification or revocation of provisional measures shall specify the change in circumstances which justified them.

Article 87

Any measures indicated by the Tribunal under article 290 of the Convention, shall forthwith be communicated in accordance with article 290, paragraph 4, of the Convention.

Article 88

The Tribunal may request information from the parties on any matter connected with the implementation of any provisional measures it has prescribed.

Subsection 2. Prompt release of vessels and crews

Article 89

1. Any application for the release of a vessel or its crew from detention may be made in accordance with article 292 of the Convention by the flag State of the vessel or on its behalf by a representative authorized under article 49, paragraph 3, of these rules. Such application may only be submitted to the Tribunal after the expiry of the time limit specified in paragraph 1 of article 292 of the Convention, unless the detaining State and the flag State have both agreed otherwise or unless they have accepted the jurisdiction of the Tribunal by declarations under article 287 of the Convention.

2. An application on behalf of a flag State shall be accompanied by an authorization under article 49, paragraph 3, of these rules, if such authorization has not been previously submitted to the Tribunal.

3. The application and the authorization shall be duly attested in the manner provided in article 44, paragraph 3, of these rules.

4. The application shall specify the time and location where the detention commenced, and contain a succinct statement of the facts and the basis and reasons for requesting release. The statement of facts shall contain relevant information

concerning the vessel and crew including the name, flag, and the port or place of registration of the vessel and its tonnage, cargo capacity and other data relevant to the determination of its value; the name and address of the vessel owner and operator and particulars regarding its crew. It shall also specify the amount, nature and terms of the bond or other financial security that may have been required by the detaining State and the extent to which such requirements have been complied with. A certified copy of the application shall forthwith be transmitted by the Registrar to the detaining State.

Article 90

1. The Tribunal shall deal without delay with the application for release which shall have priority over all other cases.

2. The Tribunal, or the President, if the Tribunal is not sitting, shall fix a date, not exceeding two weeks from the date of receipt of the application, for a hearing which will afford the parties an opportunity of being represented and submitting their oral or written observations, which shall be taken into account by the Tribunal or chamber, as the case may be.

3. If the applicant has so requested, and if the Tribunal is not in session, or a sufficient number of its members is not available to constitute a quorum, the hearing and determination shall be made by the Chamber of Summary Procedure constituted under article 15, paragraph 3, of the Statute and article 17 of these rules, unless, within one week of the receipt of notice of the application, the detaining State notifies the Tribunal that the proceedings should be before the Tribunal.

Article 91

1. The Tribunal or chamber shall, as a matter of urgency, make a determination as to the release of the vessel or its crew upon the posting with the Tribunal, of a reasonable bond or other appropriate financial security, and the nature, terms and amount thereof, which shall not exceed the value of the vessel. The Tribunal or chamber may determine that the nature, terms and amount of any bond or other financial security that may have been imposed by the detaining State is reasonable. The order shall call upon the detaining State to release the vessel or its crew upon the posting of such reasonable bond or other appropriate financial security as the Tribunal or chamber has determined. With regard to government ships operated for commercial purposes the Tribunal or chamber may consider the guarantee by the State, owner of the ship, as sufficient security.

2. The Registrar shall communicate to the parties the determination and order of the Tribunal or chamber.

3. The Registrar shall promptly notify the detaining State of the posting of the bond or other financial security with the Tribunal and order the release of the vessel or its crew.

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Article 92

Upon receipt of notification by the Tribunal from the detaining State of the release of the vessel and its crew and, upon confirmation thereof, the Tribunal shall terminate its proceedings.

Article 93

1. The Registrar shall endorse the bond or other financial security posted with the Tribunal or as directed by it, to the detaining State upon communication of the final judgement or award of the appropriate domestic forum against the vessel, its owner or its crew to the extent that it is necessary to satisfy such judgement or award.

2. The bond or other financial security, to the extent that it is not necessary to satisfy the judgement or award, shall be endorsed in favour of the flag State or its authorized representative.

[Continued in document LOS/PCN/SCN.4/WP.2/Rev.1/Part II.]

LOS/PCN/SCN.4/WP.2/Rev.1 (Part II)
24 March 1987

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
Fifth session
Kingston, Jamaica
30 March-16 April 1987

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

DRAFT RULES OF THE TRIBUNAL

PART II

Articles 94-140

(Prepared by the Secretariat)

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Explanatory note

1. Pursuant to the article-by-article discussion of the draft Rules of the Tribunal prepared by the Secretariat (LOS/PCN/SCN.4/WP.2), it was decided that the Secretariat should provide a redraft of the working paper, taking into account the deliberations, proposals of a drafting nature and the agreements and decisions of the Special Commission. The revised draft of parts I-IV, section D, subsection 2 containing articles 1-93 of the Rules was presented to the Preparatory Commission in document LOS/PCN/SCN.4/WP.2/Rev.2/Part I. The present document contains the remainder of part IV, and parts V and VI in articles 94-140 of the Rules. The present document thus supplements part I of the revised draft Rules.

2. In the preparation of part II of the revised working papers the Secretariat has also taken into account the discussions on the revised part I and the consequential changes needed to reflect the agreed formulations and understandings arrived at during those discussions.

3. Particular note was taken of the request made to the Secretariat to rationalize the use in the Rules of the terms "decisions" and "judgments" in all languages. In examining the relevant provisions and providing solutions in response to the questions raised, it was noted that the Statute of the Tribunal (annex VI of the Convention) throughout uses the word "decision" when referring to the final determination, except in its article 30, which refers to "judgment". In article 296 of the Convention, reference is made to the binding force of the final "decisions" of the courts and tribunals referred to in article 287 of the Convention. Article 296 was intended to cover both judgments and awards. In the case of pre-constituted courts or tribunals the word "judgment" would be the usual usage, while the word "award" is used in relation to decisions of arbitral tribunals. In article 296, the term "decision" is to be read as covering both.

4. Being part of, and consistent with, the Convention, the Statute (annex VI of the Convention) uses the term "decision" in most cases (except in article 30). It was always intended and understood that "the general procedures for the functioning of the [T]ribunal and its powers are on the lines of the Statute of the International Court of Justice and other international judicial tribunals". 1/ The International Court of Justice when acting under part XV of the Convention would apply its own Statute and Rules of Court, where such final decisions are referred to as "judgments". To remain consistent with this general guideline which was adopted by Special Commission 4, the Rules of the Tribunal should as far as possible follow the practice of the International Court of Justice and the usage in its Rules of Court. Thus, the same formulation that is used by the Court has been used in part 2 of the revision of the Tribunal's Rules, which is to use the term "judgments" whenever appropriate, in referring to final decisions of the Tribunal.

Notes

1/ Memorandum by the President of the Conference on document A/CONF/WP.9 (Informal single negotiating text), Official Records of the Third United Nations Conference on the Law of the Sea, vol. V (United Nations publication, Sales No. E.76.V.8), document A/CONF.62/WP.9/Add.1, para. 30.

CONTENTS

	Article	Page
Section D. Incidental proceedings	83 - 105	122
Subsection 1. Provisional measures	83 - 88	
Subsection 2. Prompt release of vessels and crews	89 - 93*	
Subsection 3. Preliminary proceedings	94	122
Subsection 4. Preliminary objections	95	123
Subsection 5. Counter-claims	96	124
Subsection 6. Intervention	97 - 102	124
Subsection 7. Special reference to the Tribunal	103	126
Subsection 8. Discontinuance	104 - 105	127
Section E. Proceedings before the Chambers	106 - 108	128
Section F. Judgments, interpretation and revision	109 - 116	129
Subsection 1. Judgments	109 - 112	129
Subsection 2. Requests for the interpretation or revision of a judgment	113 - 116	130
Section G. Modifications proposed by the parties	117	132
PART V. THE SEA-BED DISPUTES CHAMBER	118 - 130	133
Section A. Members, Members *ad hoc* and experts of the Chamber	118 - 122	133
Subsection 1. The Members and Members *ad hoc* of the Chamber	118 - 120	133
Subsection 2. Members *ad hoc*	121	134
Subsection 3. Experts	122	134
Section B. The presidency of the Sea-Bed Disputes Chamber .	123	134

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* For articles 83-93 see document LOS/PCN/SCN.4/WP.2/Rev.1/Part I.

/..

CONTENTS (continued)

	Article	Page
Section C. Proceedings before the Sea-Bed Disputes Chamber	124 - 128	135
Subsection 1. Proceedings	124 - 127	135
Subsection 2. Special reference to the Sea-Bed Disputes Chamber	128	137
Section D. *Ad hoc* chambers of the Sea-Bed Disputes Chamber	129	138
Section E. Notifications for enforcement	130	138
PART VI. ADVISORY PROCEEDINGS	131 - 140	139

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[PART IV

PROCEEDINGS IN DISPUTES

SECTION D. INCIDENTAL PROCEEDINGS (continued)] 1/

SUBSECTION 3. PRELIMINARY PROCEEDINGS

Article 94

1. When an application is made in respect of a dispute referred to in article 297 of the Convention, the Tribunal shall determine at the request of a party, or may determine proprio motu, in accordance with article 294 of the Convention, whether the claim constitutes an abuse of legal process or whether prima facie it is well founded.

2. Upon receipt by the Registry of such an application, the Tribunal, or the President if the Tribunal is not sitting, shall fix a time-limit not exceeding two weeks from receipt of the application, within which the other party or parties may request a determination in accordance with paragraph 1 of article 294 of the Convention. The Registrar shall immediately notify the other party or parties of the application and of such time-limits and shall provisionally include the case on the General List, subject to its removal under paragraph 7.

3. Any party so notified may, in requesting such a determination, present a written statement of its observations and submissions; certified copies of documents in support of the statement shall be attached and evidence which it is proposed to produce shall be mentioned.

4. Unless otherwise decided on by the Tribunal, the further preliminary proceedings shall be oral.

5. The statements and evidence presented at the hearing contemplated by paragraph 4 shall be confined to those matters that are relevant to the determination whether that claim is prima facie well founded.

6. In order to enable the Tribunal to make a determination in accordance with article 294 of the Convention, it may, whenever necessary, request the parties to argue such questions of law and fact, and to adduce such evidence, which the Tribunal considers as bearing on the issue.

7. After hearing the parties, the Tribunal shall make its determination in the form of an order. In any case where the Tribunal determines that the claim constitutes an abuse of legal process or is prima facie unfounded it shall direct the Registrar to remove the case from the General List and it shall take no further action in the case.

1/ Parts I-III and part IV, sections A-C and section D, subsections 1 and 2 are contained in document LOS/PCN/SCN.4/WP.2/Rev.1/Part 1.

8. In any case where the Tribunal determines that the claim is, prima facie, well founded it shall fix time-limits for the further proceedings, without prejudice to the right of any parties to make preliminary objections in accordance with subsection 4 of this section of the Rules.

SUBSECTION 4. PRELIMINARY OBJECTIONS

Article 95

1. Any objection by the respondent to the jurisdiction of the Tribunal or to the admissibility of the application, or other objection the decision upon which is requested before any further proceedings on the merits, shall be made in writing within the time-limit fixed for the delivery of the counter-memorial. Any such objection made by a party other than the respondent shall be filed within the time-limit fixed for the delivery of that party's first pleading.

2. The preliminary objection shall set out the facts and the law on which the objection is based, the submissions and a list of the documents in support; it shall mention any evidence which the party may desire to produce. Certified copies of the supporting documents shall be attached.

3. Upon receipt by the Registry of a preliminary objection, the proceedings on the merits shall be suspended and the Tribunal, or the President if the Tribunal is not sitting, shall fix the time-limit within which the other party may present a written statement of its observations and submissions; certified copies of documents in support shall be attached and evidence which it is proposed to produce shall be mentioned.

4. Unless otherwise decided by the Tribunal, the further proceedings relating to the preliminary objection shall be oral.

5. The statements of fact and law in the pleadings referred to in paragraphs 2 and 3, and the statements and evidence presented at the hearings contemplated by paragraph 4, shall be confined to those matters that are relevant to the objection.

6. In order to enable the Tribunal to determine its jurisdiction at this preliminary stage of the proceedings, the Tribunal, whenever necessary, may request the parties to argue all questions of law and fact, and to adduce all evidence, which bear on the issue.

7. After hearing the parties, the Tribunal shall give its decision in the form of a judgment, by which it shall either uphold the objection, reject it or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character. If the Tribunal rejects the objection or declares that it does not possess an exclusively preliminary character, it shall fix time-limits for the further proceedings.

8. Any agreement between the parties that an objection submitted under paragraph 1 of this article be heard and determined within the framework of the merits shall be given effect by the Tribunal.

SUBSECTION 5. COUNTER-CLAIMS

Article 96

1. A counter-claim may be presented provided that it is directly connected with the subject-matter of the claim of the other party and that it comes within the jurisdiction of the Tribunal.

2. A counter-claim shall be made in the counter-memorial of the party presenting it, and shall appear as part of the submissions of that party.

3. In the event of doubt as to the connection between the question presented by way of counter-claim and the subject-matter of the claim of the other party the Tribunal shall, after hearing the parties, decide whether or not the question thus presented shall be joined to the original proceedings.

SUBSECTION 6. INTERVENTION

Article 97

1. An application for permission to intervene under the terms of article 31, of the Statute, signed in the manner provided for in article 40, paragraph 3, of these Rules, shall be filed as soon as possible, and not later than the closure of the written proceedings. In exceptional circumstances, an application submitted at a later stage may however be admitted.

2. The application shall state the name of an agent. It shall specify the case to which it relates, and shall set out:

(a) the interest of a legal nature which the State Party applying to intervene considers may be affected by the decision in that case;

(b) the precise object of the intervention;

(c) any basis of jurisdiction which is claimed to exist as between the State applying to intervene and the parties to the case.

3. The application shall contain a list of the documents in support, certified copies of which documents shall be attached.

Article 98

1. A State Party or an entity other than a State Party referred to in article 291, paragraph 2, of the Convention and article 20, paragraph 2, of the Statute which desires to avail itself of the right of intervention conferred upon it by article 32 of the Statute shall file a declaration to that effect. A declaration by a State Party shall be signed in the manner provided for in article 44, paragraph 3, the declaration by an entity other than a State Party

shall be signed in the manner provided for in article 44, paragraph 5, and shall be in compliance with part V, article 124, of these Rules. Such declarations shall be filed as soon as possible, and not later than the date fixed for the opening of the oral proceedings. In exceptional circumstances a declaration submitted at a later stage may however be admitted.

2. The declaration shall state the name of an agent. It shall specify the case and the international agreement to which it relates and shall contain:

(a) particulars of the basis on which the declarant considers itself a party to the international agreement;

(b) identification of the particular provisions of the international agreement the construction of which it considers to be in question;

(c) a statement of the construction of those provisions for which it contends;

(d) a list of the documents in support, certified copies of which documents shall be attached.

3. Such a declaration may be filed by a State Party or entity other than a State Party that considers itself a party to the international agreement the construction of which is in question but has not received the notification referred to in article 32, paragraph 2, of the Statute.

Article 99

1. Certified copies of the application for permission to intervene under article 31 of the Statute, or of the declaration of intervention under article 32 of the Statute, shall be communicated forthwith to the parties to the case, which shall be invited to furnish their written observations within a time-limit to be fixed by the Tribunal or by the President if the Tribunal is not sitting.

2. The Registrar shall also transmit copies to: (a) States Parties; (b) the Secretary-General of the United Nations; (c) the Secretary-General of the International Sea-Bed Authority when it relates to matters affecting the exploration and exploitation of the Area; (d) any other parties which have to be notified under article 32, paragraph 2, of the Statute.

Article 100

1. The Tribunal shall decide whether an application for permission to intervene under article 31 of the Statute should be granted, and whether an intervention under article 32 of the Statute is admissible, as a matter of priority unless in view of the circumstances of the case the Tribunal shall otherwise determine.

2. If, within the time-limit fixed under article 99 of these Rules, an objection is filed to an application for permission to intervene, or to the admissibility of

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a declaration of intervention, the Tribunal shall hear the State or entity other than State seeking to intervene and the parties before deciding.

Article 101

1. If an application for permission to intervene under article 31 of the Statute is granted, the intervening State or entity other than a State shall be supplied with copies of the pleadings and documents and shall be entitled to submit a written statement within a time-limit to be fixed by the Tribunal. A further time-limit shall be fixed within which the parties may, if they so desire, furnish their written observations on that statement prior to the oral proceedings. If the Tribunal is not sitting, these time-limits shall be fixed by the President.

2. The time-limits fixed according to the preceding paragraph shall, so far as possible, coincide with those already fixed for the pleadings in the case.

3. The intervening State shall be entitled, in the course of the oral proceedings, to submit its observations with respect to the subject-matter of the intervention.

Article 102

1. If an intervention under article 32 of the Statute is admitted, the intervening State or entity other than a State shall be furnished with copies of the pleadings and documents annexed, and shall be entitled, within a time-limit to be fixed by the Tribunal, or by the President if the Tribunal is not sitting, to submit its written observations on the subject-matter of the intervention.

2. These observations shall be communicated to the parties and to any other State or entity other than a State admitted to intervene. The intervening party shall be entitled, in the course of the oral proceedings, to submit its observations with respect to the subject-matter of the intervention.

SUBSECTION 7. SPECIAL REFERENCE TO THE TRIBUNAL

Article 103

1. When, in accordance with the Convention or an international agreement in force related to the purposes of the Convention conferring jurisdiction on the Tribunal, a dispute is submitted to the Tribunal by means of an application or notification of a special agreement concerning a matter which has been the subject of proceedings before another international court or tribunal or other international body, the provisions of the Convention, the Statute and these Rules which govern disputes shall apply.

2. The application or notification of special agreement instituting proceedings shall identify the decision of the court or tribunal or other international body

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concerned and a copy thereof shall be annexed; where the dispute is submitted in accordance with an international agreement related to the purposes of the Convention, a certified copy of such agreement conferring jurisdiction on the Tribunal shall be annexed; the application shall contain a precise statement of the question raised in regard to the decision or act which constitutes the subject of the dispute referred to the Tribunal.

SUBSECTION 8. DISCONTINUANCE

Article 104

1. If at any time before the final judgment on the merits has been delivered the parties, either jointly or separately, notify the Tribunal in writing that they have agreed to discontinue the proceedings, the Tribunal shall make an order recording the discontinuance and directing the Registrar to remove the case from the General List.

2. If the parties have agreed to discontinue the proceedings in consequence of having reached a settlement of the dispute and if they so desire, the Tribunal may record this fact in the order for the removal of the case from the list, or indicate in, or annex to, the order, the terms of the settlement.

3. If the Tribunal is not sitting, any order under this article may be made by the President.

Article 105

1. If in the course of proceedings instituted by means of an application, the applicant informs the Tribunal in writing that it is not going on with the proceedings, and if, at the date on which this communication is received by the Registry, the respondent has not yet taken any step in the proceedings, the Tribunal shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the General List. A copy of this order shall be sent by the Registrar to the respondent.

2. If, at the time when the notice of discontinuance is received, the respondent has already taken some step in the proceedings, the Tribunal shall fix a time-limit within which the respondent may state whether it opposes the discontinuance of the proceedings. If no objection is made to the discontinuance before the expiration of the time-limit, acquiescence will be presumed and the Tribunal shall make an order officially recording the discontinuance of the proceedings and directing the Registrar to remove the case from the General List. If objection is made, the proceedings shall continue.

3. If the Tribunal is not sitting, its powers under this article may be exercised by the President.

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SECTION E. PROCEEDINGS BEFORE THE CHAMBERS

Article 106

Proceedings before the chambers mentioned in articles 14 and 15 of the Statute shall, subject to the provisions of the Convention, the Statute and these Rules relating specifically to the chambers, be governed by the provisions of Parts I to III of these Rules applicable in disputes before the Tribunal.

Article 107

1. When it is desired that a case should be dealt with by one of the chambers which has been formed in pursuance of article 15, paragraph 1, or article 15, paragraph 3, of the Statute, a request to this effect shall either be made in the document instituting the proceedings or accompanying it. Effect will be given to the request if the parties are in agreement.

2. Upon receipt by the Registry of this request, the President of the Tribunal shall communicate it to the Members of the chamber concerned. He shall, pursuant to article 17, paragraph 4, of the Statute, in consultation with the parties, request specified Members of the Tribunal forming the chamber, as many as necessary, to give place to the Members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the Members specially chosen by the parties.

3. The President of the Tribunal shall convene the chamber at the earliest date compatible with the requirements of the procedure.

4. An application for the prescription of provisional measures may be dealt with by the Chamber of Summary Procedure formed under article 15, paragraph 3, at the request of any party to the dispute, if the Tribunal is not in session or a sufficient number of Members is not available to constitute a quorum.

Article 108

1. Written proceedings in a case before a chamber shall consist of a single pleading by each side. In proceedings begun by means of an application, the pleadings shall be delivered within successive time-limits. In proceedings begun by the notification of a special agreement, the pleadings shall be delivered within the same time-limits, unless the parties have agreed on successive delivery of their pleadings. The time-limits referred to in this paragraph shall be fixed by the Tribunal, or by the President if the Tribunal is not sitting, in consultation with the chamber concerned if it is already constituted.

2. The chamber may authorize or direct that further pleadings be filed if the parties are so agreed, or if the chamber decides, proprio motu or at the request of one of the parties, that such pleadings are necessary.

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3. Oral proceedings shall take place unless the parties agree to dispense with them, and the chamber consents. Even when no oral proceedings take place, the chamber may call upon the parties to supply information or furnish explanations orally.

SECTION F. JUDGMENTS, INTERPRETATION AND REVISION

SUBSECTION 1. JUDGMENTS

Article 109

1. When the Tribunal or a chamber has completed its deliberations and adopted its judgment, the parties shall be notified, within a reasonable time, of the date on which it will be read.

2. The judgment shall be read at a public sitting of the Tribunal or chamber, as the case may be, and shall become binding on the parties on the day of the reading. Where the judgment is to be rendered as a matter of urgency, or if the Tribunal otherwise considers expedient, the President or Acting President may read the judgment at a public sitting at which all Members and Members ad hoc constituting the Bench for the case may not be present.

Article 110

1. The judgment, which shall state whether it is given by the Tribunal or a chamber, shall contain:

- the date on which it is read;
- the names of the Members and Members ad hoc of the Tribunal participating in it;
- the names of the parties;
- the names of the agents, counsel and advocates of the parties;
- a summary of the proceedings;
- the submissions of the parties;
- a statement of the facts;
- the reasons on which it is based, including the reasons in point of law;
- the operative provisions of the judgment;
- the decision, if any, in regard to costs;

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- the number and names of the Members and Members ad hoc of the Tribunal constituting the majority;

- a statement as to the text of the judgment which is authoritative.

2. Any Member or Members ad hoc of the Tribunal is entitled to attach his individual opinion to the judgment, whether or not he dissents from the majority in whole or in part; a Member or Member ad hoc of the Tribunal who wishes to record his concurrence or dissent without stating his reasons may do so in the form of a declaration. The same shall also apply to orders made by the Tribunal.

3. One copy of the judgment duly signed and sealed, shall be placed in the archives of the Tribunal and another shall be transmitted to each of the parties. Copies shall be transmitted by the Registrar to: (a) States Parties; (b) the Secretary-General of the United Nations; (c) the Secretary-General of the International Sea-Bed Authority; (d) in a case submitted under an agreement pursuant to article 20, paragraph 2, article 21 or article 22 of the Statute, the parties to such agreement.

Article 111

When by reason of an agreement reached between the parties, the written and oral proceedings have been conducted in one of the Tribunal's official languages; pursuant to article 61 of these Rules, the judgment is to be delivered in that language and the text of the judgment in that language shall be the authoritative text.

Article 112

If the Tribunal has decided in a judgment or order that under article 34 of the Statute all or part of a party's cost shall be paid by the other party, it shall, if necessary, make a consequential order determining the form and amount of payment to be made.

SUBSECTION 2. REQUESTS FOR THE INTERPRETATION OR REVISION OF A JUDGMENT

Article 113

1. In the event of a dispute as to the meaning or scope of a judgment rendered by the Tribunal, any party may, in accordance with article 33 of the Statute, make a request for its interpretation, whether the original proceedings were begun by an application or by the notification of a special agreement.

2. A request for the interpretation of a judgment may be made either by an application or by the notification of a special agreement to that effect between the parties; the precise point or points in dispute as to the meaning or scope of the decision shall be indicated.

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3. If the request for interpretation is made by an application, the requesting party's contentions shall be set out therein, and the other party shall be entitled to file written observations thereon within a time-limit fixed by the Tribunal, or by the President if the Tribunal is not sitting.

4. Whether the request is made by an application or by notification of a special agreement, the Tribunal may, if necessary, afford the parties the opportunity of furnishing further written or oral explanations.

Article 114

1. A request for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. A request for the revision of a judgment shall be made by an application containing the particulars necessary to show that the conditions specified in paragraphs 1, 3 and 4 of this article are fulfilled. Any document in support of the application shall be annexed to it.

3. The application for revision must be made at latest within six months of the discovery of the new fact.

4. No application for revision may be made after the lapse of 10 years from the date of the judgment.

5. The other party shall be entitled to file written observations on the admissibility of the application within a time-limit fixed by the Tribunal, or by the President if the Tribunal is not sitting. These observations shall be communicated to the party making the application. 2/

Article 115

1. The Tribunal, before giving its decision on the admissibility of the application, may afford the parties a further opportunity of presenting their views thereon.

2. The proceedings for revision shall be opened by a decision of the Tribunal in the form of a judgment expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

2/ There are no specific provisions in the Statute of the Tribunal relating to the revision of judgments. Nevertheless, the Preparatory Commission considers the inclusion of such provisions in the Rules of the Tribunal to be appropriate.

3. When appropriate, the Tribunal may require previous compliance with the terms of the judgment in respect of which the application is made before it admits proceedings in revision. In such case it shall make an order that the admission of proceedings in revision is conditional on previous compliance with such decision.

4. If the Tribunal finds that the application is admissible it shall fix time-limits for such further proceedings on the merits of the application as, after ascertaining the views of the parties, it considers necessary.

Article 116

1. If the judgment to be revised or to be interpreted was given by the Tribunal, the request for its revision or interpretation shall be dealt with by the Tribunal. If the judgment was given by a chamber, the request for its revision or interpretation shall be dealt with by that chamber, or if that is not possible, then a chamber composed in a similar manner.

2. If the composition of the chamber requires the approval of the parties which cannot be obtained within time-limits fixed by the Tribunal, the request shall be dealt with by a chamber constituted in a similar manner by the Tribunal.

3. The decision of the Tribunal, or of the chamber, on a request for interpretation or revision of a judgment shall itself be given in the form of a judgment.

SECTION G. MODIFICATIONS PROPOSED BY THE PARTIES

Article 117

The parties to a case may jointly propose particular modifications or additions to the Rules contained in the present part (with the exception of articles 109 to 112 inclusive), which may be applied by the Tribunal or by a chamber if the Tribunal or the chamber considers them appropriate in the circumstances of the case.

PART V

THE SEA-BED DISPUTES CHAMBER

SECTION A. MEMBERS, MEMBERS *AD HOC* AND EXPERTS OF THE CHAMBER

SUBSECTION 1. THE MEMBERS AND MEMBERS *AD HOC* OF THE CHAMBER

Article 118

1. The eleven Members of the Sea-Bed Disputes Chamber are selected from among the Members of the Tribunal in accordance with article 35 of the Statute.

2. In the selection of Members of the Chamber, the Tribunal shall take into account that in accordance with article 36, paragraph 2, of the Statute, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured; it shall also bear in mind any recommendations of a general nature adopted by the Assembly of the Authority in that regard.

3. For the purposes of a particular case, the Chamber may also include upon the Bench one or more persons chosen under article 17 of the Statute to sit as Members *ad hoc*.

4. In these Rules, the term "Member *ad hoc* of the Chamber" denotes any person chosen under article 17 of the Statute for the purposes of a particular case before the Chamber.

Article 119

1. The term of office of Members of the Chamber selected triennially shall begin to run from the (... day and month of first selection ...) [3] in the year in which the vacancies to which they are selected occur. They shall continue to discharge their duties until their places have been filled.

2. The term of office of a Member of the Chamber selected to replace a Member whose term of office has not expired shall begin to run from the date of the selection for the remainder of the predecessor's term.

Article 120

1. The provisions of article 4, paragraphs 1, 3 and 4, of these Rules shall apply, as between Members of the Chamber.

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[3] This will be the date on which the terms of office of the Members of the Chamber first selected begin.

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2. The Members of the Chamber shall, except as provided in paragraphs 3 and 4 of this article, take precedence according to the date on which their terms of office respectively began, as provided for by article 118 of these Rules.

3. In the Sea-Bed Disputes Chamber, the President of the Chamber, while holding that office, shall take precedence before all other Members of the Chamber.

4. In the Sea-Bed Disputes Chamber, the Member of the Chamber who, in accordance with article 4, paragraphs 1-4, of these Rules takes precedence next after the President of the Chamber, is designated the "senior Member of the Chamber". If that Member is unable to act, the Member of the Chamber who is next after him in precedence and able to act is considered as senior Member.

SUBSECTION 2. MEMBERS AD HOC

Article 121

1. The provisions of articles 8 and 9 of these Rules shall apply *mutatis mutandis* to the Members *ad hoc* of the Sea-Bed Disputes Chamber.

2. The solemn declarations to be made by every Member *ad hoc* in the Chamber shall be as set out in article 5, paragraph 1, of these Rules.

SUBSECTION 3. EXPERTS

Article 122

1. The powers with respect to the appointment of experts in accordance with article 289 of the Convention shall belong to the Chamber and its *ad hoc* chambers and to the presidents thereof and may be exercised in the same manner as provided in article 10 of these Rules.

2. Before entering upon their duties, experts before the Chamber or its *ad hoc* chambers shall make the declaration undertaking the responsibilities referred to in article 10, paragraph 6, including those relating to the secrecy of any confidential information acquired in relation to the performance of their duties or as a consequence of their sitting with the Chamber or its *ad hoc* chambers.

SECTION B. THE PRESIDENCY OF THE SEA-BED DISPUTES CHAMBER

Article 123

The provisions of articles 11 to 15 of these Rules shall apply, *mutatis mutandis*, to the President or the presidency, as the case may be, of the Sea-Bed Disputes Chamber.

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SECTION C. PROCEEDINGS BEFORE THE SEA-BED DISPUTES CHAMBER

SUBSECTION 1. PROCEEDINGS

Article 124

1. Section C of Part III of these Rules shall apply to the Chamber with respect to disputes between States Parties.

2. Proceedings where a party to the dispute is an entity other than a State Party, or parties to the dispute are such entities, shall be governed by the provisions of this section.

3. An application under article 20, paragraph 2, of the Statute submitted by an entity which is not a State Party shall state:

(a) the name and permanent residence or registered office address of the applicant;

(b) the name of the party respondent;

(c) in any case where the applicant is a natural or juridical person or a State enterprise, the sponsoring State;

(d) in any case where the party against which the claim is brought is a natural or juridical person or State enterprise, the sponsoring State;

(e) the subject of the dispute and the legal grounds upon which jurisdiction is said to be based; the precise nature of the claim, together with a succinct statement of the facts and grounds on which it is based;

(f) the decision or measure sought by the applicant;

(g) the nature of any evidence upon which the application is founded.

4. For the purpose of the proceedings, the applicant shall state an address for service in the place where the Tribunal has its seat. The application shall also give the name of a person who is authorized and has expressed willingness to accept service.

5. The party may have the assistance of counsel or advocates.

6. An application made by a juridical person or state enterprise shall be accompanied by:

(a) the instrument, instruments or Statute constituting and regulating the juridical person;

(b) proof that the appropriate authorization granted to the applicant's counsel or advocates.

7. If an application does not comply with the requirements set out in paragraphs 2 to 4 and 6 of this article, the Registrar shall prescribe a reasonable period within which the applicant is to comply with them. If the applicant fails to do so within the time prescribed, the Chamber may declare that the application is inadmissible in its present form, or accept it in the form presented, taking into account the circumstances of the case.

8. The application shall be served on the respondent. In a case where paragraph 7 applies, service shall be affected in such manner as the Registrar shall direct as soon as the application has been put in order or the Chamber has declared it admissible in the form presented.

9. Within two months after service of the application, the respondent shall lodge a defence, stating:

(a) the name and permanent residence or registered office address of the respondent;

(b) in any case where the applicant is a natural or juridical person or a State enterprise, the sponsoring State;

(c) the matters in issue between the parties to the dispute and the grounds on which the defence is based;

(d) any decision or measure sought by the respondent;

(e) the nature of any evidence on which the defence is founded.

The provisions of paragraphs 4 to 7 shall apply in a corresponding manner to the defence.

10. The time-limit laid down in paragraph 9 may be extended by the President of the Chamber on a reasoned application by the respondent.

Article 125

1. The application originating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the respondent.

2. The President shall fix the time-limits within which these pleadings are to be lodged.

3. In reply or rejoinder a party may indicate further evidence. The party must, however, give reasons for the delay in indicating it.

4. No fresh issue may be raised in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the written proceedings.

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5. If, in the course of the written proceedings one of the parties raises a fresh issue which is so based, the President may, even after the expiry of the normal procedural time-limits, allow the other party time to answer on that issue.

6. The decision on the admissibility of the issue shall be reserved for the final judgment.

7. The Chamber may, at any time, after hearing the parties, order that for the purpose of the written or oral proceedings or of its final judgment, a number of related cases concerning the same subject-matter shall be dealt with jointly. The decision to join the cases may be subsequently rescinded.

Article 126

Upon the closure of the written proceedings, the case is ready for hearing. Subsection 5 of section C of part IV shall apply, *mutatis mutandis*, to oral proceedings before the Sea-Bed Disputes Chamber.

Article 127

1. An application under article 185, paragraph 2, of the Convention shall be submitted to the Sea-Bed Disputes Chamber in accordance with article 124, paragraph 1, of this section.

2. Such application shall be submitted to the Sea-Bed Disputes Chamber in accordance with article 162, paragraph 2 (u), of the Convention, by the Secretary-General of the Authority on behalf of the Council of the International Sea-Bed Authority and shall be accompanied by a duly certified copy of the decision or resolution of the Council upon which the application is based.

3. When an application is submitted under this article, for the purposes of the proceedings before the Sea-Bed Disputes Chamber, the Secretary-General of the Authority shall be considered the applicant in the case. [4]

SUBSECTION 2. SPECIAL REFERENCE TO THE SEA-BED DISPUTES CHAMBER

Article 128

1. When, in accordance with article 188, paragraph 2, of the Convention, a question relating to the interpretation of the Convention is referred to the Sea-Bed Disputes Chamber for a ruling by a commercial arbitral tribunal, the provisions of the Convention, the Statute and these Rules which govern disputes shall apply.

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[4] The question as to whether such applications would be in the name of the Authority or of the Council would have to be decided.

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2. The reference of a question to the Sea-Bed Disputes Chamber shall contain a precise statement of the question raised in relation to the interpretation of the Convention on which a ruling is requested.

SECTION D. AD HOC CHAMBERS OF THE SEA-BED DISPUTES CHAMBER

Article 129

1. An ad hoc chamber of the Sea-Bed Disputes Chamber shall be formed in accordance with article 36 of the Statute when a dispute has been submitted to the Chamber at the request of any party to the dispute, in accordance with article 188, paragraph 1 (b), of the Convention.

2. The appointment of Members of the ad hoc chamber shall be made as soon as possible after the submission of the request as referred to in paragraph 1. The President of the Sea-Bed Disputes Chamber, after consultation with the parties, shall promptly make the appointments if the parties fail to agree on the composition of the ad hoc chamber or to make nominations within the time-limits to be determined by the President.

SECTION E. NOTIFICATIONS FOR ENFORCEMENT

Article 130

At the request of a party to the dispute, for the enforcement of any decision of the Sea-Bed Disputes Chamber or its ad hoc chambers against natural or juridical persons in accordance with annex III, article 21, paragraph 2, or annex VI, article 39, of the Convention, the Registrar of the Tribunal shall directly communicate the decision by transmitting a copy of the judgment or order to the Government of the State Party in whose territory the enforcement is sought, for enforcement in the same manner as judgments or orders of the highest court of that State.

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PART VI

ADVISORY PROCEEDINGS

Article 131

1. In the exercise of its advisory functions under article 191 of the Convention, the Sea-Bed Disputes Chamber shall apply, in addition to the provisions of article 159, paragraph 10, of the Convention, the provisions of the present Part of the Rules.

2. The Sea-Bed Disputes Chamber shall also apply the provisions of the Statute, in accordance with article 40, paragraph 2, thereof. It shall also be guided by the provisions of these Rules which apply in disputes to the extent to which it recognizes them to be applicable. For this purpose, it shall consider whether the request for the advisory opinion relates to a legal question which is pending between two or more States Parties.

3. When an advisory opinion is requested upon a legal question which is pending between two or more States Parties, article 17 of the Statute concerning the nationality of Members shall apply, as also the provisions of these Rules concerning the application of that article.

Article 132

1. Questions upon which the advisory opinion of the Chamber is requested by the Assembly or the Council shall be transmitted to the Chamber by the Secretary-General of the International Sea-Bed Authority by means of a written request. The request shall contain an exact statement of the legal question arising within the scope of the activities of the Assembly or the Council upon which an opinion is required. It shall be accompanied by all documents likely to throw light upon the question.

2. The documents referred to in paragraph 1 shall be transmitted to the Chamber at the same time as the request or as soon as possible thereafter in the number of copies required by the Registry.

Article 133

The Assembly of the Council of the International Sea-Bed Authority cannot request an advisory opinion on matters which are already under consideration in a contentious case between the Authority and another Party.

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Article 134

When the Assembly or Council of the International Sea-Bed Authority informs the Chamber that its request for an advisory opinion is in accordance with article 159, paragraph 10, of the Convention or necessitates an urgent answer, the Chamber shall, in accordance with articles 191 of the Convention, take all necessary steps to accelerate the procedure, and shall as a matter of urgency hear and deliberate on the request.

Article 135

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all States Parties. Any State Party may present a written statement or be heard on the question upon which the advisory opinion has been sought and the Chamber shall decide on the time-limit for such presentation.

2. The Registrar shall also, by means of a special and direct communication, notify any international organization, other than those referred to in article 1 of annex IX of the Convention, considered by the Chamber or, should it not be sitting, by the President of the Chamber, as likely to be able to furnish information on the question, that the Chamber will be prepared to receive, within a time-limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. States Parties and organizations having presented written or oral statements shall be permitted to comment exclusively on the statements made by other States Parties or organizations within the time-limits which the Chamber, or, should it not be sitting, the President of the Chamber, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to States Parties and organizations having submitted similar statements.

Article 136

The Chamber, or its President if the Chamber is not sitting, shall:

(a) determine the form in which, and the extent to which, comments permitted under article 135, paragraph 3, of these Rules shall be received, and fix the time-limit for the submission of any such comments in writing;

(b) decide whether oral proceedings shall take place at which statements and comments may be submitted to the Chamber under the provisions of article 135 of these Rules and fix the date for the opening of such oral proceedings.

Article 137

The Chamber, or its President if the Chamber is not sitting, may decide that the written statements and annexed documents shall be made accessible to the public on or after the opening of the oral proceedings. If the request for advisory

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opinion relates to a legal question which is pending between two or more States Parties, the views of those States Parties shall be ascertained.

Article 138

1. When the Chamber has completed its deliberations and adopted its advisory opinion, the opinion shall be read at a public sitting of the Chamber. Where the advisory opinion is to be rendered as a matter of urgency, the President or acting President may read the opinion at a public sitting at which all Members and Members ad hoc of the Chamber constituting the Bench may not be present.

2. The advisory opinion shall contain:

- the date on which it is delivered;
- the names of the Members and Members ad hoc participating;
- the question on which the advisory opinion of the Chamber is requested;
- a summary of the proceedings;
- a statement of the facts;
- the reasons on which it is based, including the reasons in point of law;
- the reply to the question put to the Chamber;
- the number and names of the Members and Members ad hoc constituting the majority;
- a statement as to the text of the opinion which is authoritative.

3. Any Member of Member ad hoc may, if he so desires, attach his individual opinion to the advisory opinion of the Chamber, whether he dissents from the majority or not; a Member or Member ad hoc who wishes to record his concurrence or dissent without stating his reasons may do so in the form of a declaration.

Article 139

The Registrar shall inform the Secretary-General of the International Sea-Bed Authority as to the date and the hour fixed for the public sitting to be held for the reading of the opinion. He shall also inform the representatives of the members of the International Sea-Bed Authority and the international organizations immediately concerned.

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Article 140

One copy of the advisory opinion, duly signed and sealed, shall be placed in the archives of the Tribunal, others shall be sent to the Secretary-General of the International Sea-Bed Authority and to the Secretary-General of the United Nations. Copies shall be sent by the Registrar to the members of the International Sea-Bed Authority and to international organizations immediately concerned.

LOS/PCN/SCN.4/WP.3
18 March 1985

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Table of concurrence of the Draft Rules of the Tribunal

(Prepared by the Secretariat)

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Introduction

1. At the twelfth informal meeting of Special Commission 4, a request was made to the Secretariat to prepare a table of concurrence to the Draft Rules of the Tribunal in order to facilitate their consideration. Subsequently the Chairman of the Special Commission conveyed this request to the Plenary, which endorsed the request on 5 September 1984. The Secretariat has accordingly prepared the following table containing references to the documents used in the preparation of the draft rules. Whenever a source was used which is identical with or reasonably similar to a draft rule, a corresponding cross-reference is given. While the Secretariat has made every effort to ensure accuracy, the possibility of errors in a table of this complexity may yet exist.

2. The Draft Rules were drawn primarily from the Rules of Court of the International Court of Justice (ICJ), and in some cases from its Statute. Where no such source existed, resort was had to other appropriate sources, including the practice of the Court of Justice of the European Economic Community. The relevant provisions of the Statute of the Tribunal are also cross-referenced, as are their equivalents in the Statute of the International Court of Justice. The corresponding provision in the United Nations Convention on the Law of the Sea is referred to where necessary.

3. The table provided identifies, in the different columns, the appropriate references to: the Draft Rules of the Tribunal (Tribunal Rules); the Statute of the Tribunal in annex VI to the Convention (Statute, ITLOS); the United Nations Convention on the Law of the Sea (UNCLOS); the Rules of Court of ICJ (ICJ Rules); its Statute (ICJ Statute); and the Rules of Court of the Court of Justice of the European Economic Community (EEC Rules).

4. In utilizing the table, it is to be noted that:

(a) Where the Tribunal Rule is directly drawn from, is an elaboration of, or is consequent upon the provisions of the Tribunal's Statute, reference is made to the Statute as the source, and there may also be a cross-reference to the ICJ Statute where the latter contains an equivalent provision;

(b) Where a Tribunal Rule is an elaboration of, or is consequent upon, a provision of the United Nations Convention on the Law of the Sea, that source is noted;

(c) Where a Tribunal rule follows an equivalent or nearly equivalent provision in the ICJ Rules, the reference to the ICJ rule indicates the source;

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(d) Where an appropriate source does not exist in the ICJ Rules, but does appear in the ICJ Statute, then in the absence of reference to an ICJ rule, the reference to the ICJ Statute indicates that the latter is the source;

(e) In cases where the appropriate source was the EEC Rule, the relevant reference is indicated.

5. While the intention of this Table of concurrence is to provide a means of easy reference, it is not possible in this concise form to indicate which provisions are virtually identical to the source quoted and which provisions are merely similar. The entries therefore refer only to the source used, but give no indication of the extent to which that source was modified.

Table of Concurrence of the Draft Rules of the Tribunal

Title/Subject a/	Tribunal rules	Statute ITLOS	UNCLOS	ICJ Rules	ICJ Statute	EEC rules
PART I. THE TRIBUNAL						
SECTION A. JUDGES AND EXPERTS						
Subsection 1. Members of the Tribunal	1	2-6,17	-	1	3-15,31	-
	2	5	-	2	13	-
	3	-	-	3	-	-
	4	11	-	4	20	-
	5	5(4)	-	5	13(4)	-
	6	9	-	6	18	-
Subsection 2. Judges *ad hoc*	7	17	-	7	31	-
	8	11,17(6)	-	8	20,31(6)	-
Subsection 3. Experts	9	15	289, VIII,2	9	30(2)	-
SECTION B. PRESIDENCY OF THE TRIBUNAL						
	10	12(1)	-	10	21(1)	-
	11	-	-	11	-	-
	12	-	-	12	45	-
	13	-	-	13	45	-
	14	12(1)	-	14	21(1)	-
SECTION C. THE SEA-BED DISPUTES CHAMBER	15	Sect. 4 35-40	-	-	-	-
SECTION D. SPECIAL CHAMBERS	16	15(3)	-	15	29	-
	17	15(1)	-	16	26(1)	-
	18	15(2)	-	17	26(2)	-
	-	17(4,5)	-	-	31(4,5)	-
	18(3)	-	-	17(3)	-	-
	19	-	-	18	-	-
SECTION E. INTERNAL FUNCTIONING OF THE TRIBUNAL	20	-	-	19	-	-
	21	13(1)	-	20	23(2,3)	-
					25(1,3)	-
	22	-	-	21	54(3)	-

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a/ All references are to article numbers and numbers in parentheses indicate paragraph numbers. Roman numbers denote annexes.

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Title/Subject	Tribunal rules	Statute ITLOS	UNCLOS	ICJ Rules	ICJ Statute	EEC rules
PART II. THE REGISTRY	23	12(2)	-	22	21(2)	-
	24	12(2)	-	23	21(2)	-
	25	-	-	24	-	-
	26	12(2)	-	25	21(2)	-
	27			26		
	28	-	-	27	-	-
	29	12(2)	-	28	21(2)	-
	30	-	-	29	-	-
PART III. PROCEEDINGS IN DISPUTES						
SECTION A. DECLARATIONS, AGREEMENTS, COMMUNICATIONS AND NOTICES						
Subsection 1. Declarations and agreements	31	-	287,288(2)	-	-	
			298,299	-	-	-
Subsection 2. Communications and notices	32	-	-	30	-	-
	33	-	-	-	44	-
SECTION B. COMPOSITION OF THE TRIBUNAL FOR PARTICULAR CASES	34	-	-	32	-	-
	35	5(3)	-	33	13(3)	-
	36	8	-	34	17(2),24	-
	37	17(2-6)	-	35	31(2-6)	-
	38	17(5)	-	36	31(5)	-
	39	-	-	37	-	-
SECTION C. PROCEEDINGS BEFORE THE TRIBUNAL						
Subsection 1. Institution of proceedings	40(1-3)	24(1)	-	38	40(1)	-
	40(6)	-	-	-	-	-
	41	24(1)	-	39	40(1)	-
	42	-	-	40	42	-
	43	20,37	-	41	-	-
	44	24(2,3)	-	42	40	-
	45	21,22	288(2)	43	63(1)	-

/...

Title/Subject	Tribunal rules	Statute ITLOS	UNCLOS	ICJ Rules	ICJ Statute	EBC rules
Subsection 2. Representation of parties	46(1-3)	-	-	-	42	-
	46(4)	-	292	-	-	-
	47	-	-	-	-	32
	48	-	-	-	-	33
	49	-	-	-	-	34
	50	-	-	-	-	35
	51	-	-	-	-	36
Subsection 3. Proceedings	52	-	-	-	43	-
	53			31		
Subsection 4. Written proceedings	54	-	-	44	-	-
	55	-	-	45	-	-
	56	-	-	46	-	-
	57	-	-	47	-	-
	58	-	-	48	-	-
	59	-	-	49	-	-
	60	-	-	50	-	-
	61(1,5,6)	-	-	51	-	-
	61(2,3,4)	-	-	-	39	-
	62	-	-	52	43(4)	-
	63	-	-	53	-	-
Subsection 5. Oral proceedings	64	-	-	54	-	-
	65	1(3)	-	55	22(1)	-
	66	-	-	56	43	-
	67	-	-	57	-	-
	68	-	-	58	-	-
	69	-	-	59	-	-
	70	-	-	60	-	-
	71	26(1)	-	61	45	-
	72	-	-	62	-	-
	73	-	-	63	-	-
	74	-	-	64	-	-
	75	-	-	65	51	-
	76	-	-	66	44(2)	-
	77	-	-	67	50	-
	78	-	-	68	-	-
	79(1,2,4)	-	-	69	34(2)	-
	79(3)	-	-	-	34(3)	-
				69(3)	-	-
	80	-	-	70	39(3)	-
	81(1-5,7)	-	-	71	-	-
	81(6)	-	-	-	47	-
	82	-	-	72	-	-

Title/Subject	Tribunal rules	Statute ITLOS	UNCLOS	ICJ Rules	ICJ Statute	EEC rules
Subsection 5. Oral proceedings (cont.)	83	25	290	73	41	-
	84	-	-	74	-	-
	85	-	-	75(3)	-	-
	86	25	290(3)	76(2)	-	-
	87	25	290(4)	77	41(2)	-
	88	-	-	78	-	-
	89	-	297,294(1)	-	-	-
	90	-	294(3)	79	-	-
	91	-	-	80	-	-
	92	31	-	81	62	-
	93	32	-	82	63	-
	94	31,32	-	83	62,63	-
	95	31,32	-	84	62,63	-
	96	31	-	85	62	-
	97	32	-	86	63	-
Subsection 6. Special reference to the Tribunal	98	-	188,286	87	-	-
Subsection 7. Discontinuance	99	-	-	88	-	-
	100	-	-	89	-	-
SECTION E. PROCEEDINGS BEFORE THE CHAMBERS	101	14,15	-	90	26,29	-
	102	15(1),(3)	-	91	26(1),29	-
	-	17(4)	-	-	31(4)	-
	103	-	-	92	-	-
	104	15(5)	-	93	27	-
SECTION F. JUDGEMENTS, INTERPRETATION AND REVISION						
Subsection 1. Judgments	105	30(4)	-	94	58	-
	106	30,20(2)	-	95	56,57,58	-
	-	21,22	-	-	-	-
	107	-	-	96	39(1)	-
	108	34	-	97	64	-
Subsection 2. Requests for the interpretation or revision of a decision	109	33(3)	-	98	60	-
	110	-	-	-	61	-
	111	-	-	99	60	-
	112	-	-	100	-	-

Title/Subject	Tribunal rules	Statute ITLOS	UNCLOS	ICJ Rules	ICJ Statute	EEC rules
SECTION G. MODIFICATIONS PROPOSED BY THE PARTIES	113	-	-	101	-	-
PART IV. THE SEA-BED DISPUTES CHAMBER						
SECTION A. JUDGES AND EXPERTS OF THE CHAMBER						
Subsection 1. The members of the Chambers	114(1,3,4)	17,35	-			-
	114(2)	35(2)	-	-	-	-
	115	35(3,6)	-			-
	116	-	-		-	-
	117	-	-	-	-	3
Subsection 2. Judges *ad hoc*	118	36	-	-	-	-
Subsection 3. Experts	119	-	-	9(4,5)	26,29	-
	119(2)	-	-	-	-	3
SECTION B. THE PRESIDENCY OF THE SEA-BED DISPUTES CHAMBERS	120	-	-	-	-	-
	121(1,2)	-	-	-	-	-
	121(3-10)	20(2)	190	-	-	38(1-3, 5,7)
	-	-	-	-	-	
	-	-	-	-	-	39,40
	122	-	-	-	-	41,42,43
	123	-	188(2),	-	-	-
	-	-	185(2),	-	-	-
	-	-	162(2u)	-	-	-
	124	36	188(1b)	-	-	-
	125	39	III,21(2)	-	-	-
PART V. ADVISORY PROCEEDINGS	126	17,40(2)	159(10),191	102	-	-
	127	-	-	104,	65(2)	-
	128	-	159(10),191	103	-	-
	129	-	-	-	66	-
	130	-	-	105	-	-
	131	-	-	106	-	-
	132	-	-	107	-	-
	133	-	-	108	67	-
	134	-	-	109	-	-

LOS/PCN/SCN.4/WP.4
2 September 1986

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL SEA-BED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 11 August-5 September 1986

HEADQUARTERS AGREEMENT AND RELATED INSTRUMENTS ON PRIVILEGES AND IMMUNITIES

(Issues for consideration)

INTRODUCTION

1. The question of headquarters agreements was included as an item on the agenda of Special Commission 4 (see LOS/PCN/SCN.4/1984/CRP.1/Rev.1 of 29 March 1984, item 3). At the Fourth Session of the Preparatory Commission, the secretariat was requested to prepare a working paper that, taking into account the appropriate precedents of headquarters agreements, would identify the issues on which the members of Special Commission 4 could carry out an exchange of views. The secretariat could thereafter prepare a draft headquarters agreement for the seat of the Tribunal, bearing in mind that an appropriate headquarters agreement is an essential prerequisite for the effective functioning of the Tribunal. In working paper LOS/PCN/SCN.4/WP.1, several requirements of headquarters agreements were identified. It may be appropriate in the present context to elaborate on the main issue on which an exchange of views in the Special Commission would be important, viz. privileges, immunities and facilities.

I. PRIVILEGES AND IMMUNITIES

2. During its deliberations, Special Commission 4 carried out a preliminary examination on the question of privileges, immunities and facilities that should be accorded to representatives of the parties and functionaries of the Tribunal (see LOS/PCN/SCN.4/L.3 and L.4 of 3 April and 3 September 1985 respectively). The secretariat was at that time requested to provide a clarification as to how such privileges and immunities could be secured. The Special Representative of the Secretary-General provided an opinion on these issues to the Special Commission (see LOS/PCN/SCN.4/1985/CRP.8 of 29 March 1985). From the tenor of the discussions

that followed, it was clear that the headquarters agreement would be the instrument to deal with those privileges and immunities to be granted by the host country. At the same time, it was recognized that privileges, immunities and facilities required for the Tribunal outside the territory of the host country would have to be provided in a separate legal instrument adopted as a result of action to be taken by the meeting of States parties, to which the report of the Preparatory Commission would be submitted, in accordance with paragraph 10 of resolution I of the Third United Nations Conference on the Law of the Sea.

A. Members of the Tribunal

3. The diplomatic privileges and immunities extended to the members of the Tribunal when engaged on its business are secured by article 10 of the Statute (annex VI of the Convention). The obligation to provide these immunities is imposed on all States parties.

4. The practice indicates that if a member resides in the host country so as to hold himself permanently available to exercise his functions as a member of the Tribunal, he should enjoy diplomatic privileges and immunities during his residence. The President of the Tribunal is required to reside at the seat in accordance with article 12 of the Statute. Although the other members are not required to do so, they should be entitled to if they so desire. Privileges and immunities would also have to be extended to the immediate families and functionaries of the members who are resident in the host country. The privileges would also extend to exemptions from taxation, customs duties or similar levies.

5. When travelling in connection with the business of the Tribunal, a member should enjoy all the privileges and immunities granted to diplomatic envoys. These privileges and immunities should extend, within the host country, to the person, the property and the documents of the members. When a member does not reside in the host country, he should be accorded every facility for travelling to and from the seat of the Tribunal and for entering the country free from restrictions or any requirements concerning immigration or temporary residence. Travel to and from the headquarters district should not in any way be restrained or restricted.

6. When the term of office of an elected member has expired, and in the event that he continues to function as a member for the purpose of a particular case, he should continue to enjoy the same privileges, immunities and facilities.

B. Members ad hoc

7. The members ad hoc whether resident in the host country or elsewhere should, while engaged in the business of the Tribunal, enjoy the same privileges, immunities and facilities as the elected members.

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C. Experts appointed under article 289 of the Convention

8. These experts may be appointed by the Tribunal in cases involving scientific and technical matters and they would sit with the Tribunal. As such, they should be accorded functional privileges, immunities and facilities.

D. Parties to a dispute

9. Parties to a dispute may constitute States parties, intergovernmental organizations referred to in annex IX of the Convention, other intergovernmental organizations, which would include the Authority and its Enterprise, other States, State entities and natural or juridical persons or consortia constituted by such persons.

10. Freedom of access to and from the headquarters of the Tribunal would be required for any party to a dispute. Bearing in mind that the parties to the dispute should in all respects be treated equally, this freedom should not only be secured for States parties, the different types of international organizations and State entities, but also for natural and juridical persons or consortia.

11. In the case of States parties, their attendance and participation in proceeding before the Tribunal would be through accredited representatives or agents. This would also be the case for intergovernmental organizations contemplated in annex IX of the Convention. In the case of other international organizations, including the Authority and the Enterprise, and even for juridical persons or other corporate bodies, they would have authorized representatives. However, in the case of natural persons, they should be entitled to appear in person, if they choose to do so in preference to being represented, however remote the possibility may be. The privileges, immunities and facilities would be those required to provide free access to and from the headquarters, the entitlement to reside temporarily while the case is proceeding and the immunities from search or seizure or other restraint to the person, property and documents reasonably required for the purpose of participating in the proceedings before the Tribunal.

12. There would have to be immunity as regards spoken or written word in the conduct of the proceedings. Besides the entitlement to transit and access to the headquarters district, any party to a case should be assured the freedom of communication by utilizing the traditional and recent forms of communication such as mail, telegram, telex, radio or other, and the entitlement to utilize code when doing so.

13. The question thus arises whether, in effect, all of the prospective parties to a dispute would require the same privileges, immunities and facilities that have traditionally been accorded to States parties for the conduct of cases before international tribunals.

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E. Agents, counsels and advocates

14. These representatives of parties in the proceedings should be entitled to the same range of privileges, immunities and facilities that are accorded to the parties themselves, or their representatives.

15. For the host country to accord these privileges and immunities, the Tribunal, through its Registrar, would have to notify the host country as to who had been designated by a party to a dispute and was thus entitled to claim these privileges, immunities and facilities.

F. Witnesses and experts who testify on behalf of a party or at an instance of the Tribunal

16. Witnesses and experts should be treated in a manner similar to agents, counsel or advocates representing the parties.

G. The Registrar, the officials and staff of the Registry

17. The Registrar is also required to reside at the seat of the Tribunal (art. 12, para. 3 of the Statute) and is thus in a position similar to the Tribunal's President. According to the prevailing precedent, the Registrar would enjoy similar privileges, immunities and facilities to those accorded to the members. The same would extend to any other official of the Registry, such as the Deputy Registrar, who may act for the Registrar.

18. Functional privileges, immunities and facilities would be required for the staff of the Registry. The nature of the privileges and immunities to be accorded to the staff would depend on the status and designation of different officials and should be commensurate with their level of responsibility. They would require facilities to reside at or near the seat of the Tribunal and to transit to and from the headquarters district. They should also be free from interception and interference, as also their property and documents related to their work for the Tribunal. In the case of officials of the registry resident at the seat, their immediate family and functionaries would have to be accorded the requisite privileges, immunities and facilities.

II. GENERAL

19. For the convenience of examining these issues, the aspects of privileges, immunities and facilities to be accorded to the representatives of States, to functionaries and to the different categories of officials and persons would include the following:

(a) Personal inviolability and immunity from arrest;

(b) Immunity from legal proceedings for words spoken or written or acts done by them in the course of a case or proceedings before the Tribunal;

/...

(c) Abuse of privilege;

(d) Immigration restrictions, alien registration;

(e) Currency or exchange restrictions;

(f) Personal baggage and effects;

(g) Customs and excise duties;

(h) Taxation;

(i) Parking offences and traffic regulations;

(j) Freedom of communication and inviolability of correspondence, archive and documents;

(k) Use of codes, diplomatic bags and couriers;

(l) Right of access to the headquarters within the host country;

(m) Any others.

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LOS/PCN/SCN.4/WP.5 (Part I)
4 August 1987

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 27 July-21 August 1987

DRAFT HEADQUARTERS AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE FEDERAL REPUBLIC OF GERMANY

(Prepared by the Secretariat)

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Explanatory note

1. The form of presentation of the draft and the formulations used are in the style and manner of an agreement. To the extent possible, the most appropriate precedent has been used, since such formulations and the interpretations that may be given to them are more readily predictable.

2. Notwithstanding these considerations, the primary objective in presenting the draft is to ensure that all the necessary provisions are included, it being understood that the review by the Special Commission will be the examination of the necessary provisions to be incorporated in the Headquarters Agreement, but not necessarily the specific formulations. The provisions that are considered acceptable and necessary would be in the form of an Agreement though the formulations should not be treated as final formulations that cannot be changed. It would also seem unlikely that the Meeting of States Parties would wish to examine a draft Headquarters Agreement in an excessively definitive form, as this would involve a time-consuming and laborious examination of legal texts by a plenipotentiary meeting. Rather, the Meeting of States Parties should only be expected to approve the substance of the agreement. The Preparatory Commission and the Meeting of States Parties would not wish to tie the hands of the parties concerned, namely, the host Government and the Tribunal, to an unnecessary degree of detail. Otherwise, they may prejudice the negotiations that would finally have to take place between the parties to the agreement. The Tribunal would have the legal capacity and competence to contract and the ultimate Agreement would be its responsibility. Circumstances prevailing at the time of negotiating the final agreement may be substantially changed from those existing at present and there may be questions arising from the protocol and/or the international agreement dealing with privileges and immunities of the Tribunal and parties before it, which has to be approved by the Meeting of States Parties. Thus, it would seem essential to maintain a degree of flexibility for the final negotiations leading up to the approval by the parties, of the final Agreement.

3. The draft Agreement is intended to facilitate the identification of the necessary provisions and should thus only be considered as a working paper.

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CONTENTS

Page

Article 1. Use of terms 160

Article 2. Legal personality of the Tribunal 161

Article 3. The headquarters district 162

Article 4. Law and authority in the headquarters district 162

Article 5. Inviolability of the headquarters district 163

Article 6. Vicinity of the headquarters district 164

Article 7. Protection of the headquarters district 164

Article 8. Public services in the headquarters district 164

Article 9. Official communications 165

Article 10. Freedom of publication 166

Article 11. Flag and emblem 166

Article 12. Property 166

Article 13. Archives 167

Article 14. Social security and pension funds 167

Article 15. Exemption from taxation, customs charges and import or export restrictions 167

Article 16. Freedom from currency restrictions 168

Article* Privileges, immunities, facilities and prerogatives of members and officials

Article _Ad hoc_ members/experts appointed under article 289 of the Convention

Article Agents of States Parties

Article Other agents, counsel and advocates

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* Remaining articles will appear in document LOS/PCN/SCN.4/WP.5 (Part II).

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CONTENTS (continued)

Article Experts and witnesses

Article Waiver of immunity

Article Documents, notifications, identity cards

Article Additional requirements for entry and sojourn in the host country

Article Persons having their permanent residence in the host country

Article Responsibility, liability, insurance

Article Co-operation with the competent authorities

Article Dispute settlement

Article Final clauses

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AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE FEDERAL REPUBLIC OF GERMANY REGARDING THE HEADQUARTERS OF THE TRIBUNAL

The International Tribunal for the Law of the Sea and the Federal Republic of Germany

- HAVING REGARD to the United Nations Convention on the Law of the Sea, in particular to its annex VI,

- HAVING REGARD to article ... (legal personality of the Tribunal) ... of the [Protocol] [Agreement] on Privileges and Immunities of the International Tribunal for the Law of the Sea,

- HAVING REGARD that, pursuant to annex VI, article 1, paragraph 2, the seat of th International Tribunal for the Law of the Sea shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany,*

...

HAVE AGREED AS FOLLOWS:

Article 1

Use of terms

For the purposes of this Agreement:

(a) "Ad hoc member" means a person chosen under article 17, paragraphs 2, 3 or 4, of the Statute as referred to in article 2 of the Rules;

(b) "Authority" means the International Sea-Bed Authority;

(c) "Competent authorities" means the competent authorities in accordance with the laws and regulations of the Federal Republic of Germany, including courts and other authorities, as may be appropriate, of the Bund (Federal State) and the Länder (States), as well as the local authorities;

(d) "Convention" means the United Nations Convention on the Law of the Sea, adopted by the Third United Nations Conference on the Law of the Sea on 30 April 1982;

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* See the requirement recorded in paragraph 38 of the Final Act of the Third United Nations Conference on the Law of the Sea (document A/CONF.62/121).

/...

(e) "Expert" means a person called at the instance of a party to a dispute or at the instance of the Tribunal to present testimony in the form of expert opinions, based on his special knowledge, skills, experience or training; 1/

(f) "Expert appointed under article 289 of the Convention" means a person appointed in accordance with that article to sit with the Tribunal; 1/

(g) "Government" means the Government of the Federal Republic of Germany;

(h) "Headquarters district" means the area defined in article 3 of this Agreement;

(i) "Members" means the elected members of the Tribunal as referred to in article 2 of the Statute;

(j) "Officials of the Tribunal" means the Registrar and other members of the staff of the Registry;

(k) "Protocol/Agreement" means the Protocol/Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea;

(l) "Rules" means the Rules of the International Tribunal for the Law of the Sea;

(m) "States Parties" shall have the same meaning as defined in article 1, paragraph 2, of the Convention;

(n) "Statute" means the Statute of the International Tribunal for the Law of the Sea, annex VI to the Convention;

(o) "Tribunal" means the International Tribunal for the Law of the Sea.

Article 2

Legal personality of the Tribunal

The Government recognizes the legal personality of the Tribunal and, in particular, its capacity:

(a) to contract;

(b) to acquire, lease, hold and dispose of movable and immovable property; and

(c) to institute legal proceedings.

1/ Refer LOS/PCN/SCN.4/CRP.20.

Article 3

The headquarters district

1. The seat of the Tribunal shall be the headquarters district.

2. The headquarters district shall comprise:

(a) the area with the building or buildings upon it, defined as such in annex I to this Agreement; and

(b) any other lands, buildings or part of buildings which may from time to time be included therein by supplementary agreement between the Tribunal and the competent authorities.

3. The area with the required building or buildings referred to in paragraph 2 (a), together with the installations, equipment, fittings and all other facilities therein which are required for the effective functioning of the Tribunal, shall be made available to the Tribunal in accordance with the Additional Agreement concluded between the Tribunal and the competent authorities.

4. The competent authorities shall take whatever action may be necessary to ensure that the Tribunal shall not be dispossessed of all or any part of the headquarters district without the express consent of the Tribunal.

Article 4

Law and authority in the headquarters district

1. The headquarters district shall be under the control and authority of the Tribunal, as provided in this Agreement.

2. The Tribunal shall have the power to make regulations operative throughout the headquarters district for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Tribunal shall from time to time inform the Government of regulations enacted in accordance with the first sentence of this paragraph. No law or regulation of the Federal Republic of Germany which is inconsistent with a regulation of the Tribunal authorized by this paragraph shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute between the Tribunal and the Federal Republic of Germany as to whether a regulation of the Tribunal is authorized by this paragraph, or as to whether a law or regulation of the Federal Republic of Germany is inconsistent with any regulation of the Tribunal authorized by this paragraph, shall be promptly settled by the procedure set out in article .... Pending such settlement, the regulation of the Tribunal shall apply and the law or regulation of the Federal Republic of Germany shall be inapplicable in the headquarters district to the extent that the Tribunal claims it to be inconsistent with the regulation of the Tribunal.

3. Except as otherwise provided in this Agreement or in the Protocol/Agreement and subject to the provisions of paragraph 2 of this article, the laws and regulations of the Federal Republic of Germany shall apply in the headquarters district.

4. Except as otherwise provided in this Agreement or in the Convention, the competent authorities shall have jurisdiction in accordance with the applicable laws and regulations of the Federal Republic of Germany over acts done and transactions taking place in the headquarters district.

Article 5

Inviolability of the headquarters district

1. The headquarters district shall be inviolable. No officer or official of the Federal Republic of Germany or other person exercising any public authority within the Federal Republic of Germany shall enter the headquarters district to discharge any official duty except upon the agreement of or at the request of the President of the Tribunal and in accordance with conditions approved by him.

2. Judicial actions and the executions of legal process, including the seizure of private property, cannot be enforced in the headquarters district except with the consent of the President of the Tribunal and in accordance with conditions approved by him.

3. In case of fire or other disaster requiring prompt protective action, the consent of the President of the Tribunal to any necessary entry of the headquarters district shall be presumed if the President and the Registrar cannot be reached in time.

4. Subject to paragraph 3, the competent authorities may take the necessary action to protect the premises of the Tribunal against fire.

5. Without prejudice to the provisions of this Agreement and the Convention the Tribunal shall not allow the headquarters district to become a refuge from justice for persons against whom a penal judgment had been made or who are pursued flagrante delicto, or against whom a warrant of arrest or an order of extradition, expulsion or deportation has been issued by the competent authorities.

6. Subject to paragraphs 1 and 2, nothing in this article shall preclude the official delivery by the postal service, in the headquarters district, of letters and documents.

7. The Tribunal may expel or exclude persons from the headquarters district for violation of its regulations adopted under article 4 of the present Agreement or for other causes. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the competent authorities.

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Article 6

Vicinity of the headquarters district

1. The competent authorities shall take all reasonable steps to ensure that the amenities of the headquarters district are not impaired and that the use for which the headquarters district is required is not obstructed by the use made of the lan and buildings in the vicinity of the headquarters district.

2. The Tribunal shall ensure that the headquarters district is not used for othe purposes than for which it is required and shall take all reasonable steps to ensure that the land and buildings in its vicinity are not unreasonably obstructed.

Article 7

Protection of the headquarters district

1. The competent authorities shall exercise due diligence to ensure that the tranquillity of the headquarters district is not disturbed by any person or group of persons entering without authorization or attempting unauthorized entry of the headquarters district or creating disturbances in the immediate vicinity of the headquarters district, and shall provide on the boundaries of the headquarters district such police protection as may be required.

2. If so requested by the President of the Tribunal, the competent authorities shall provide the police forces necessary for the preservation of law and order in the headquarters district and the removal therefrom of persons as requested under the authority of the President.

3. Notifications of requests by the President, under paragraph 2, may be made on his behalf by the Acting President in his absence or by any other duly authorized official of the Tribunal.

Article 8

Public services in the headquarters district

1. The competent authorities shall endeavour, within the limits of their competences, on equitable terms, and in accordance with the request made by the President of the Tribunal, to provide public services needed by the Tribunal, such as postal, telephone and telegraph services, electricity, water, gas, sewerage, drainage, collection of waste, fire protection, local public transport, and cleaning of public streets, including snow removal.

2. In case of interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Tribunal as being of equal importance to those of the constitutional organs of the Free and Hanseatic City of Hamburg, and shall, within the limits of their powers, take the necessary steps to ensure that such services are reinstated as soon as possible.

/...

3. Upon request, the President of the Tribunal shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters district under conditions which shall not unreasonably disturb the carrying out of the functions of the Tribunal.

4. In cases where gas, electricity or water are supplied by the competent authorities or where the prices thereof are under their control, the Tribunal shall be supplied at rates which shall not exceed the lowest comparable rates accorded to the local administrative authorities.

5. Notifications of requests by the President, under this article, may be made on his behalf by the Acting President in his absence or by any other duly authorized official of the Tribunal.

Article 9

Official communications

1. The Government shall secure the inviolability of all official communications directed to the Tribunal, or to any of its officials in the headquarters district, as well as all outgoing official communications of the Tribunal, by whatever means or in whatever form transmitted, and shall be immune from censorship and from any other form of interception or interference with their privacy. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound or videotape recordings.

2. The Tribunal shall have the right to use codes in conformity with the regulations of the International Telecommunication Union and to dispatch and receive correspondence and other official materials or communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

3. Upon request, the Federal Republic of Germany shall provide for the official purposes of the Tribunal appropriate radio and other telecommunications facilities in conformity with the regulations of the International Telecommunications Union. These facilities may be specified by supplementary agreement between the Tribunal and the competent authorities.

4. Subject to the necessary authorization by the Meeting of States Parties and with the agreement of the Government as may be included in a supplementary agreement, the Tribunal may also establish and operate in the headquarters district:

(a) its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment), which may be used on the same frequencies (within the tolerance prescribed for the broadcasting service by applicable regulations of the Federal Republic of Germany) for radiograph, radiotelephone and similar services;

/...

(b) such other radio facilities as may be specified by supplementary agreement between the Tribunal and the competent authorities.

5. The Tribunal shall enjoy, as far as compatible with the international agreements, regulations and arrangements to which the Federal Republic of Germany is a party, for its official communications treatment not less favourable than that accorded by the Federal Republic of Germany to local authorities or to international organizations and diplomatic missions, in the matter of priorities and rates for mail, cables, telegrams, radiograms, telex, facsimile, telephotos, television, telephone and other communications as well as press rates for information to press and radio.

Article 10

Freedom of publication

1. The Federal Republic of Germany recognizes the right of the Tribunal to publish and broadcast freely within the Federal Republic of Germany for purposes in conformity with the Convention and its Statute.

2. It is, however, understood that the Tribunal shall respect any laws and regulations of the Federal Republic of Germany as well as any international agreements to which the Federal Republic of Germany is a party, relating to intellectual property rights.

Article 11

Flag and emblem

The Tribunal shall be entitled to display its flag and emblem in the headquarters district and on vehicles used for official purposes.

Article 12

Property

1. The Tribunal, its assets, income and other property, wherever located and by whomsoever held, shall enjoy immunity, it being understood that no waiver shall extend to any measure of execution of legal actions.

2. The property, funds and assets of the Tribunal, wherever located and by whomsoever held, shall be immune from search, confiscation, requisition, seizure, expropriation or any other form of executive, administrative or legislative enforcement action.

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Article 13

Archives

The archives of the Tribunal and, in general, all documents belonging to or held by it, shall be inviolable wherever they are located. The location of the archives of the Tribunal shall be made known to the Government if it is at a place other than in the headquarters district.

Article 14

Social security and pension funds

1. The Members and the officials of the Tribunal shall be exempt from all compulsory contributions to the social security scheme of the Federal Republic of Germany in the event that they elect not to participate in such scheme, if they are covered by the social security scheme of the United Nations, or if the Tribunal establishes its own social security scheme for them.

2. Voluntary participation in the national security scheme shall be in accordance with the laws of the Federal Republic of Germany.

3. Any pension fund established by the Tribunal with separate property and assets shall have legal capacity in accordance with the laws of the Federal Republic of Germany if the Tribunal so requests, and shall enjoy the same exemptions, immunities and privileges as the Tribunal itself.

Article 15

Exemption from taxation, customs charges and import or export restrictions

1. Within the scope of its official activities, the Tribunal, its assets and property, its income, and its operations and transactions shall be exempt from all direct taxation, and goods imported for its official use shall be exempt from all customs duties. Direct taxes shall be considered to be all taxes whether levied directly by the Federal Government, by a Land (State), or any other regional or local authority. Such taxes shall, in particular, include income tax or corporate tax, trade tax, property tax, and land tax. The motor vehicles belonging to or operated by the Tribunal shall, on request, be exempted from motor vehicle tax.

2. In the purchase of goods or services necessary for the official activities of the Tribunal, when the price of such goods or services includes taxes or duties, appropriate measures shall be taken by the Federal Republic of Germany to grant exemption from such taxes or duties or provide for their reimbursement. Goods imported or purchased under an exemption shall not be sold or otherwise disposed of in the territory of the Federal Republic of Germany except under conditions agreed with the Government.

3. The Tribunal shall not claim exemption from payment for services rendered directly to it.

4. The salaries, allowances, compensation and other emoluments of the Members and *ad hoc* Members and the Registrar of the Tribunal shall be free from all taxation imposed by the competent authorities in accordance with article 18, paragraph 8, of the Statute. Similarly, the other officials of the Tribunal shall also be exempt from income or other taxes imposed by the competent authorities.

Article 16

Freedom from currency restrictions

The Tribunal shall not be subject to financial controls, regulations or moratoria of any kind in carrying out its activities and may receive and hold funds and securities and operate accounts in any currency; it may freely dispose of these assets.

LOS/PCN/SCN.4/WP.5 (Part II)
26 February 1988

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Special Commission 4
Kingston, Jamaica
14 March-8 April 1988

DRAFT HEADQUARTERS AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE FEDERAL REPUBLIC OF GERMANY

PART II

Articles 17-28

(Prepared by the Secretariat)

Explanatory Note

1. Part II of the draft Headquarters Agreement contained herein is a supplemen to part I, and the introductory note therein applies equally to this part.

2. In the preparation of this part, the Secretariat has also taken into accoun the discussions in Special Commission 4 on part I of the draft Headquarters Agreement (document LOS/PCN/SCN.4/WP.5 (Part I)), as reflected in the Chairman's Summary of Discussions (document LOS/PCN/SCN.4/L.10/Add.1).

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CONTENTS

Page

Article 17. Privileges, immunities, facilities and prerogatives of Members and officials 172

Article 18. *Ad hoc* Members and experts appointed under article 289 of the Convention 173

Article 19. Agents, counsel and advocates before the Tribunal 173

Article 20. Witnesses, experts and persons performing missions 174

Article 21. Waiver 174

Article 22. Laissez-passer, notifications, identity cards 175

Article 23. Entry, transit and sojourn in the host country 175

Article 24. Nationals and residents of the host country 176

Article 25. Responsibility, liability, insurance 176

Article 26. Co-operation with the competent authorities 177

Article 27. Supplemental agreements 177

Article 28. Settlement of disputes 177

Final provisions 179

Annex 179

Notes 180

Article 17

Privileges, immunities, facilities and prerogatives of Members and officials

1. The privileges, immunities, facilities and prerogatives to be accorded to Members and officials of the Tribunal within the territory of the Federal Republic of Germany are as follows:

(a) The Members of the Tribunal shall be accorded the same treatment as heads of diplomatic missions accredited to the Federal Republic of Germany. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations. 1/ The treatment accorded to Members shall also be accorded to the Registrar of the Tribunal and to the Deputy Registrar or any other official of the Tribunal when acting as Registrar.

(b) The Deputy Registrar of the Tribunal shall be accorded the same treatme as counsellors attached to diplomatic missions in the Federal Republic of Germany. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic agents in accordance with the Vienna Conventio on Diplomatic Relations.

(c) The other officials of the Tribunal shall, consistent with the Vienna Convention on Diplomatic Relations, be treated as officials of comparable rank attached to diplomatic missions in the Federal Republic of Germany.

2. The spouses and unmarried children of Members of the Tribunal, the Registrar and the officials of the Tribunal shall receive the same treatment as the Member or official concerned, if they live in the same household and are without employment. The domestic staff of the family should be accorded the same treatment as accorded in each case to the domestic staff of diplomatic persons of comparable rank.

3. The Members of the Tribunal shall enjoy the same treatment, even after the expiry of their terms of office, if they continue to exercise their functions.

4. In order to secure complete freedom of speech and complete independence in the discharge of their duties, the Members and officials of the Tribunal shall continue to enjoy immunity from legal process in respect of words spoken and written and all acts done by them in the discharge of their duties even when they are no longer engaged in the business of the Tribunal.

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Article 18

Ad hoc Members and experts appointed under article 289 of the Convention

The privileges, immunities, facilities and prerogatives accorded to Members of the Tribunal, their families and households, in accordance with article 17, shall apply, mutatis mutandis, to ad hoc Members and experts appointed under article 289 of the Convention in the discharge of their duties and to their families and domestic staff while such ad hoc Members and experts are exercising their functions.

Article 19

Agents, counsel and advocates before the Tribunal

1. Agents, counsel and advocates representing parties to proceedings before the Tribunal shall be accorded the privileges, immunities and facilities necessary for the independent exercise of their duties, while exercising their functions, and during their journey to and from the headquarters district, subject to the relevant rules of the Tribunal. 2/ In particular, they shall be accorded:

(a) Immunity from personal arrest or detention;

(b) Immunity from legal process of every kind in respect of words spoken and written and all acts done by them while discharging their duties as representatives of parties before the Tribunal, which shall continue even after they have ceased to exercise their functions;

(c) Inviolability of official documents and papers relevant to the exercise of their functions;

(d) The right to receive papers or correspondence by courier or in sealed bags;

(e) Exemption in respect of immigration restrictions or alien registration;

(f) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. The provisions of paragraph 1 above are without prejudice to the diplomatic privileges, immunities, facilities and prerogatives which, in accordance with the relevant resolutions, conventions and practice, are accorded to representatives of States Parties who may be agents, counsel or advocates before the Tribunal.

3. The provisions of paragraph 2 shall be applicable irrespective of the relations existing between the Governments of such representatives and of the host country.

Article 20

Witnesses, experts and persons performing missions

Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded the privileges, immunities and facilities necessary for the independent exercise of their functions, while on mission and during their journey to and from the headquarters district subject to the relevant rules of the Tribunal. In particular, they shall be accorded the privileges, immunities and facilities accorded to agents, counsels and advocates under article 19, paragraph 1, subparagraphs (a) to (f).

Article 21

Waiver

1. Privileges and immunities referred to in articles 17 to 20 are granted in the interests of the International Tribunal for the Law of the Sea in order to safeguard the independent performance of their official functions, not for the personal benefit of the individuals themselves.

2. The right and the duty to waive immunity in any case where, in its opinion, the immunity is not directly related to or incidental to the performance of officials' functions and would impede the course of justice, and can be waived without prejudice to the interests of the Tribunal, shall lie with:

(a) The Tribunal, by the unanimous decision of its available Members, after hearing the party concerned, in respect of:

- (i) The Registrar or the Deputy Registrar when acting as Registrar;
- (ii) Experts appointed under article 289 of the Convention;
- (iii) Agents, counsel or advocates who are not diplomatic representatives of State; and
- (iv) Witnesses, experts and persons performing a mission by order of the Tribunal;

(b) The State Party concerned, when the Tribunal recommends, by the unanimou decision of its available Members, after hearing the representative, in respect of any diplomatic representation who is an agent, counsel or advocate of such State Party;

(c) The Registrar, with the President's approval, after hearing the party concerned, in respect of the Deputy Registrar and other officials or staff of the Tribunal and members of their households.

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Article 22

Laissez-passer, 3/ notifications, identity cards

1. (a) The competent authorities shall recognize and accept laissez-passer issued by the International Tribunal for the Law of the Sea to the Members of the Tribunal, the Registrar and officials of the Tribunal as valid travel documents, taking into account the provisions of subparagraph (b).

(b) Applications for visas (where required) from the Members of the Tribunal and the Registrar should be dealt with as speedily as possible. All other holders of laissez-passer should receive the same facilities when their applications for visas are accompanied by a certificate that they are travelling on the business of the Tribunal. In addition, all holders of laissez-passer should be granted facilities for speedy travel.

(c) Similar facilities to those specified in subparagraph (b) should be accorded to witnesses, experts and other persons who, though not the holders of laissez-passer delivered by the Tribunal, have a certificate that they are travelling on the business of the Tribunal.

2. The Registrar shall notify the competent authorities when any person mentioned in article 17 of this Agreement takes up or relinquishes his duties, and shall periodically send the competent authorities a list of all such persons.

3. The Registrar shall, on behalf of the Tribunal, furnish persons referred to in articles 18 to 20 with a forge-proof identity card stating name, date and place of birth and number of passport or number of national identity card and bearing a photograph and signature of the person concerned. This identity card shall serve to identify the holder and his official capacity in relation to the Tribunal, to the competent authorities.

4. The Registrar shall notify the competent authorities of the nomination of agents, counsel and advocates referred to in article 19 of this Agreement. When attendance before the Tribunal by a person referred to in articles 19 and 20 of this Agreement is required, the Registrar shall notify the appropriate authorities immediately. This information shall state the name, date and place of birth and home address of the person concerned as well as his functions before the Tribunal and the anticipated duration of his functions.

Article 23

Entry, transit and sojourn in the host country

1. The competent authorities shall take all necessary measures to facilitate the entry into and sojourn in the Federal Republic of Germany, and shall place no impediment in the way of departure from the Federal Republic of Germany, of the persons referred to in articles 17 to 20. The competent authorities shall ensure that no impediment is placed in the way of their transit to or from the headquarters seat and shall afford them any necessary protection in transit.

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2. Paragraph 1 of this article shall not apply in the case of general interruptions of transportation, and shall not impair the effectiveness of generally applicable laws relating to the operation of means of transportation.

3. Visas which may be required by persons referred to in paragraph 1 shall be granted without charge as promptly as possible.

4. No activity performed by any person referred to in paragraph 1 in his official capacity with respect to the Tribunal shall constitute a reason for preventing his entry into or his departure from the territory of the Federal Republic of Germany or for requiring him to leave such territory.

5. It is understood that the persons referred to in articles 17 to 20 are not exempt from any reasonable application of the internationally accepted rules governing quarantine and public health.

6. The provisions of this Agreement shall not prejudice the right of the Federal Republic of Germany to take, with the approval of the President of the Tribunal, such precautionary measures as may be necessary in the interest of its security or for the maintenance of public order.

Article 24

Nationals and residents of the host country

1. The members and officials of the Tribunal and persons referred to in articles 17 to 20 who may be nationals or residents of the host country are not subject to the local jurisdiction for acts performed by them in their official capacity and within the scope of their duties.

2. Nationals or residents of the host country who are officials of the Tribunal of whatever rank are exempt from direct taxation on the remunerations paid to them from the Tribunal's budget.

Article 25

Responsibility, liability, insurance

1. The Federal Republic of Germany shall not incur by reason of the location of the headquarters seat of the Tribunal within its territory any international responsibility for acts or omissions of the Tribunal or of its officials acting or abstaining from acting within the scope of their functions other than the international responsibility which the Federal Republic of Germany would incur as a State Party to the Convention.

2. Without prejudice to its immunities under this Agreement or the Protocol/Agreement on privileges and immunities 4/, the Tribunal may carry insurance to cover liability for any injury or damage arising from the activities

of the Tribunal in the host country or from its use of the headquarters site or buildings erected thereon, that may be suffered by persons other than officials of the Tribunal, or by the Government. To this end, the competent authorities shall co-operate with the Tribunal in securing insurance coverage permitting claims to be submitted directly to the insurer by parties suffering injury or damage. Such claims and liability shall, without prejudice to the privileges and immunities of the Tribunal, be governed by the laws of the host country.

Article 26

Co-operation with the competent authorities

The Tribunal shall co-operate at all times with the appropriate authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent any abuse in connection with the privileges, immunities and facilities of officials of the Tribunal provided for in article 17.

Article 27

Supplemental agreements

The Tribunal and the Govenment may enter into such supplemental agreements as may be necessary.

Article 28

Settlement of disputes

1. Upon the entry into force with respect to the Federal Republic of Germany of any protocol/agreement 4/ conferring privileges and immunities on the Tribunal, such protocol/agreement shall, to the extent that it deals with the same subject-matters, be complementary; but in case of conflict, it shall prevail.

2. As soon as possible from the date of entry into force of this Agreement, the Tribunal shall make suitable provision for the satisfactory settlement of:

(a) Disputes arising out of contracts and disputes of a private law character to which the Tribunal is a party;

(b) Disputes involving any official of the Tribunal who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with article 21.

3. Any dispute between the Tribunal and the Government concerning the interpretation or application of this Agreement or of any supplemental agreement, or any question affecting the headquarters or the relationship between the Tribunal and the Government which is not settled by negotiation or other agreed mode of

settlement, shall be referred for final decision to a panel of three arbitrators, one to be chosen by the Tribunal, one to be chosen by the Government, and the third, who shall be the Chairman of the panel, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third member within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations upon the request of the Tribunal or the Government. If either party to this Agreement has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall make such appointment.

/...

Final provisions

This Agreement shall enter into force upon its signature on behalf of the Government and on behalf of the Tribunal.

The provisions of this Agreement may only be modified by agreement between the Tribunal and the Government.

Done and signed at ______________ on ________________.

Annex

[Specifications as to site, buildings, etc.]

Notes

1/ The "use of terms" article should include an additional definition as follows: "The Vienna Convention on Diplomatic Relations means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961."

2/ The Rules of the Tribunal should contain provisions for the practical implementation of these requirements. Based on the available precedent, such Rule would require the Registrar: (a) to notify the host country in advance as to who is an authorized agent, counsel or advocate of a party before the Tribunal; (b) to indicate the prospective period for which their presence at and travel within the host country would be required; and (c) when requested, to determine what constitutes official documents and papers relevant to the exercise of their functions as agents, counsel or advocates. A similar provision could authorize th Registrar to obtain exemption from search, seizure and the payment of custom dutie of appropriate personal baggage and a reasonable quantity of goods brought into th country by such functionaries.

Suitable precedent and relevant practice in this regard is limited. However, precedent exists for agents, advisers and lawyers representing a non-State entity before an international judicial forum to enjoy limited privileges, immunities and facilities which are granted exclusively in the interest of proper conduct of proceedings. The Tribunal may wave the immunities where it considers that the proper conduct of proceedings will not be hindered thereby. The privileges, immunities and facilities accorded to such agents, advisers and lawyers in the existing precedent (Rules of Court of the EEC, arts. 32 and 33) are as follows:

(a) Entitlement to travel in the course of their duty without hindrance;

(b) Immunity in respect of words spoken or written by them concerning the case or the parties;

(c) Exemptions from search and seizure of official documents and papers relating to the proceedings (where the authorities wish to search or seize documents or papers which are claimed to be official, the Registrar inspects them and determines the validity of such a claim).

In order to qualify for these privileges, facilities and immunities, the agents, advisers and lawyers are required to furnish proof of their status:

(a) Agents would be required to produce an official document issued by the party they represent, a copy of which should be promptly forwarded to the Registrar

(b) Advisers and lawyers would be provided with a certificate signed by the Registrar when he is notified of such appointment by the party. This certificate would be limited to the specified period required for the proceedings.

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Notes (continued)

3/ It is assumed that the protocol/agreement adopted by the Meetings of States Parties on the privileges and immunities of the Tribunal would provide for the issuance of laissez-passer to Members and officials of the Tribunal similar to the issuance of United Nations laissez-passer by the International Court of Justice.

4/ This Agreement presupposes the adoption of a protocol/agreement providing generally for the privileges and immunities of the Tribunal, just as General Assembly resolution 90 (I) provides for the privileges and immunities of the United Nations.

LOS/PCN/SCN.4/WP.5/Rev.1
8 August 1988

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 15 August-2 September 1988

REVISED DRAFT HEADQUARTERS AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE FEDERAL REPUBLIC OF GERMANY

(Prepared by the Secretariat)

Explanatory Note

1. The draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5/Parts I and II) was reviewed by Special Commission 4 during the summer meeting of the Preparatory Commission (27 July to 21 August 1987) and at the sixth session (14 March to 8 April 1988). The discussions are reflected in the Chairman's summaries (LOS/PCN/SCN.4/L.10/Add.1 and L.11 and Add.1).

2. At the conclusion of its consideration of the draft, the Special Commission requested the Secretariat to prepare a revision of the draft in the light of the discussions, taking into account the matters on which there was agreement, the views expressed and the suggestions made by delegations, including the drafting suggestions handed to the Secretariat.

3. The Special Commission also decided that, pursuant to the recommendation of its Bureau, the revised draft Headquarters' Agreement to be presented by the Secretariat would only be subjected to a final reading by the Commission if, after attending to its other business, the Commission had time left for that purpose and if there was a need for such action.

4. The revised draft presented by the Secretariat reflects those matters on which there was agreement within the Commission. Where there was no consensus, the general thrust of the views expressed by delegations has been reflected. On matters where there was a divergence of views, except where there was an overwhelming preference, the text attempts to provide a compromise. In all cases, the formulations used have attempted to follow the most appropriate precedent and practice.

5. Given that it is not possible to reflect in a single draft every nuance of opinion, the draft must be viewed as an attempt to achieve the stated objective while maintaining those requirements that were considered most important or relevant by the Special Commission.

CONTENTS

Page

Article 1. Use of terms 186

Article 2. Juridical personality of the Tribunal 187

Article 3. The headquarters district 188

Article 4. Law and authority in the headquarters district 188

Article 5. Inviolability of the headquarters district 189

Article 6. Vicinity of the headquarters district 190

Article 7. Protection of the headquarters district 190

Article 8. Property 190

Article 9. Public services in the headquarters district 191

Article 10. Communications facilities 191

Article 11. Flag and emblem 192

Article 12. Archives 193

Article 13. Social security and pension funds 193

Article 14. Exemption from taxation, customs duties and import or export restrictions 193

Article 15. Freedom from currency restrictions 194

Article 16. Privileges, immunities, facilities and prerogatives 194

Article 17. Members and officials of the Tribunal 194

Article 18. Ad hoc Members and experts appointed under article 289 of the Convention 195

Article 19. Agents representing parties, counsel and advocates appearing before the Tribunal 196

Article 20. Witnesses, experts and persons performing missions 197

Article 21. Nationals and residents of the host country 197

Article 22. Waiver 198

/...

CONTENTS (continued)

Page

Article 23. Laissez-passer, identity cards and notifications 199

Article 24. Entry, transit and sojourn in the host country 199

Article 25. Security 200

Article 26. Responsibility, liability and insurance 200

Article 27. Co-operation with the competent authorities 201

Article 28. Supplemental agreements 202

Article 29. Application of the relevant agreements on the privileges and immunities of the Tribunal 202

Article 30. Settlement of disputes 202

Article 31. Amendments 203

Article 32. Final provisions 203

Annex 203

/...

AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE FEDERAL REPUBLIC OF GERMANY REGARDING THE HEADQUARTERS OF THE TRIBUNAL

The International Tribunal for the Law of the Sea and the Federal Republic of Germany

- HAVING REGARD to the United Nations Convention on the Law of the Sea, in particular to its annex VI, and that pursuant thereto, the seat of the International Tribunal for the Law of the Sea shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany,*

- HAVING REGARD to the legal personality of the Tribunal and the provisions of the Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea,

HAVE AGREED AS FOLLOWS:

Article 1

Use of terms

For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea;

(b) "Statute" means the Statute of the International Tribunal for the Law of the Sea, annex VI to the Convention;

(c) "Rules" means the Rules of the International Tribunal for the Law of the Sea;

(d) "Protocol" means the Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea;

(e) "States Parties" shall have the same meaning as in article 1 of the Convention;

(f) "Tribunal" means the International Tribunal for the Law of the Sea;

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* See the requirement recorded in paragraph 38 of the Final Act of the Third United Nations Conference on the Law of the Sea (A/CONF.62/121) stating that the decisions on the sites of the Authority and the Tribunal were taken by the informal plenary subject to the requirement that the States specified should have ratified the Convention by the time of its entry into force and should remain Parties to it thereafter.

/...

(g) "Authority" means the International Sea-Bed Authority;

(h) "the host country" means the Federal Republic of Germany;

(i) "Government" means the Government of the Federal Republic of Germany;

(j) "competent authorities" means such Bund (federal), Länder (state), or local authorities in the Federal Republic of Germany as may be appropriate in the context and in accordance with the laws, regulations and customs of the Federal Republic of Germany, including the laws, regulations and customs of the Länder (state) and local authorities involved;

(k) "Member" means an elected member of the Tribunal as referred to in article 2 of the Statute and article 2 of the Rules;

(l) "*ad hoc* Member" means a person chosen under article 17 of the Statute for the purpose of a particular case;

(m) "officials of the Tribunal" means the Registrar and other members of the staff of the Registry;

(n) "expert" means a person called at the instance of a party to a dispute or at the instance of the Tribunal to present testimony in the form of expert opinions, based on his special knowledge, skills, experience or training;

(o) "expert appointed under article 289 of the Convention" means a person appointed in accordance with that article to sit with the Tribunal;

(p) "headquarters district" means the area defined in article 3 of this Agreement.

Article 2

Juridical personality of the Tribunal

In accordance with its juridical personality the Tribunal has, in particular, the capacity:

(a) to contract;

(b) to acquire and dispose of movable and immovable property;

(c) to institute proceedings.

/...

Article 3

The headquarters district

1. The seat of the Tribunal shall be the headquarters district, which shall comprise:

(a) the area with the building or buildings upon it, defined as such in the annex to this Agreement; and

(b) any other lands, buildings or parts of buildings which may from time to time be included therein by supplementary agreement between the Tribunal and the competent authorities.

2. The area with the required building or buildings referred to in paragraph 1 (a), together with the installations, equipment, fittings and all other facilities therein which are required for the effective functioning of the Tribunal, shall be made available to it in accordance with the Additional Agreement concluded between the Tribunal and the Government.

Article 4

Law and authority in the headquarters district

1. The headquarters district shall be under the control and authority of the Tribunal, in accordance with this Agreement.

2. The Tribunal shall have the power to make regulations operative throughout the headquarters district for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Tribunal shall promptly inform the competent authorities of regulations thus enacted in accordance with this paragraph. No federal, state or local law or regulation of the Federal Republic of Germany which is inconsistent with a regulation of the Tribunal authorized by this paragraph shall, to the extent of such inconsistency, be applicable within the headquarters district.

3. Any dispute between the Tribunal and the Federal Republic of Germany as to whether a regulation of the Tribunal is authorized by this paragraph, or as to whether a federal, state or local law or regulation of the Federal Republic of Germany is inconsistent with any regulation of the Tribunal authorised by this paragraph, shall be promptly settled by the procedure set out in article 30. Pending such settlement, the regulation of the Tribunal shall apply and the federal, state or local law or regulation of the Federal Republic of Germany shall be inapplicable in the headquarters district to the extent that the Tribunal claims it to be inconsistent with the regulation of the Tribunal.

4. Except as otherwise provided in this Agreement or in the Protocol and subject to the provisions of paragraph 2 of this article, the laws and regulations of the Federal Republic of Germany shall apply in the headquarters district.

/...

5. Except as otherwise provided in this Agreement or in the Protocol, the courts or other competent authorities shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the headquarters district.

6. The competent authorities, when dealing with cases arising out of or relating to acts done or transactions taking place in the headquarters district, shall take into account the regulations enacted by the Tribunal under this article.

Article 5

Inviolability of the headquarters district

1. The headquarters district shall be inviolable. No officer or official of the host country or other person exercising any public authority within the host country shall enter the headquarters district to discharge any official duty except upon the express consent of or at the request of the President or acting President of the Tribunal and in accordance with conditions approved by him.

2. Judicial actions and the service or executions of legal process, including the seisure of private property, cannot be enforced in the headquarters district except with the consent of and in accordance with conditions approved by the President or Registrar of the Tribunal.

3. In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur in the headquarters district, the consent of the President of the Tribunal to any necessary entry of the headquarters district shall be presumed if neither the President nor the Registrar can be reached in time.

4. Subject to paragraphs 1 and 3, the competent authorities shall take the necessary action to protect the premises of the Tribunal against fire or other emergency.

5. Without prejudice to the Convention, this Agreement and the Protocol, the Tribunal shall not allow the headquarters district to become a refuge from justice for persons against whom a penal judgement had been made or who are pursued flagrante delicto, or against whom a warrant of arrest or an order of extradition, expulsion or deportation has been issued by the competent authorities.

6. Subject to paragraphs 1 and 2, nothing in this article shall preclude the official delivery by the postal service, to the headquarters district, of letters and documents.

7. The Tribunal may expel or exclude persons from the headquarters district for violation of its regulations adopted under article 4.

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Article 6

Vicinity of the headquarters district

1. The competent authorities shall take all reasonable steps to ensure that the amenities of the headquarters district are not impaired and that the use for which the headquarters district is intended is not obstructed by the use made of the land and buildings in the vicinity of the headquarters district.

2. The Tribunal shall ensure that the headquarters district is not used for purposes other than those for which it is intended and shall take all reasonable steps to ensure that the land and buildings in its vicinity are not unreasonably obstructed.

Article 7

Protection of the headquarters district

1. The competent authorities shall take whatever action may be necessary to ensure that the Tribunal shall not be dispossessed of all or any part of the headquarters district without the express consent of the Tribunal.

2. The competent authorities shall exercise due diligence to ensure that the tranquillity of the headquarters district is not disturbed by the unauthorised entry of persons or groups of persons from outside or by disturbances in the immediate vicinity and shall provide to the headquarters district the appropriate protection as may be required.

3. The competent authorities shall provide the police forces necessary for the preservation of law and order in the headquarters district and the removal therefrom of persons if so requested by a duly authorised official of the Tribunal.

Article 8

Property

1. The Tribunal, its assets, income and other property, wherever located in the host country and by whomsoever held, shall enjoy immunity, it being understood that any waiver should be explicitly formulated by the President of the Tribunal and in any case shall not extend to any measure of execution of legal actions.

2. The property, funds and assets of the Tribunal, wherever located in the host country and by whomsoever held, shall be immune from search, confiscation, requisition, seizure, expropriation or any other form of executive, administrative or legislative enforcement action.

/...

Article 9

Public services in the headquarters district

1. The competent authorities shall do their utmost to ensure, in accordance with the request made by a duly authorized official of the Tribunal, and on equitable terms, the provision of the public services needed by the Tribunal, such as postal, telephone and telegraph services, electricity, water, gas, sewerage, collection of waste, fire protection, local transportation and cleaning of public streets.

2. In case of interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Tribunal as being of equal importance with the needs of the essential agencies and organs of the Federal Government and of the constitutional organs of the Free and Hanseatic City of Hamburg and will take steps accordingly to ensure that the work of the Tribunal is not impaired.

3. Upon request of the competent authorites, a duly authorized official of the Tribunal shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters district under conditions which shall not unreasonably disturb the carrying out of the functions of the Tribunal. Underground constructions may be undertaken by the competent authorities within the headquarters district only after consultation with an authorized official of the Tribunal and under conditions which shall not disturb the carrying out of the functions of the Tribunal.

4. In cases where gas, electricity or water are supplied by the competent authorities or where the prices thereof are under their control, the Tribunal shall be supplied at rates which shall not exceed the lowest comparable rates accorded to the Federal or local governmental or administrative authorities.

Article 10

Communications facilities

1. The Tribunal shall enjoy, as far as compatible with the international agreements, regulations and arrangements to which the Federal Republic of Germany is a party, for its official communications treatment not less favourable than that accorded by the Federal Republic of Germany to Federal and local authorities or to international organizations and diplomatic missions, in the matter of priorities and rates for mail, cables, telegrams, radiograms, telex, facsimile, telephotos, television, telephone and other communications as well as press rates for information to press and radio.

2. The competent authorities shall secure the inviolability of all communications and correspondence directed to the Tribunal, or to any of its officials in the headquarters district, as well as all outgoing communications and correspondence of the Tribunal, by whatever means or in whatever form transmitted, and they shall be

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immune from any other form of interception or interference with their privacy. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound or videotape recordings.

3. The Tribunal shall have the right to use codes and to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

4. If so requested by a duly authorized official of the Tribunal, the competent authorities shall provide for the official purposes of the Tribunal appropriate radio and other telecommunications facilities. These facilities may be specified by supplementary agreement between the Tribunal and the competent authorities.

5. Subject to the necessary authorization by the Meeting of States Parties and with the agreement of the Government as may be included in a supplementary agreement, the Tribunal may also establish and operate at the headquarters district:

(a) its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment), which may be used on the same frequencies (within the tolerance prescribed for the broadcasting service by applicable regulations of the Federal Republic of Germany) for radiograph, radiotelephone and similar services;

(b) such other radio facilities as may be specified by supplementary agreement between the Tribunal and the competent authorities.

6. The Tribunal shall have the right to publish and broadcast freely and without restriction within the host country for purposes in conformity with the Convention and its Statute.

Article 11

Flag and emblem [1]

The Tribunal shall be entitled to display its flag and emblem in the headquarters district and on vehicles used for official purposes.

1/ A relevant decision on the flag and emblem of the Tribunal will have to be taken by the Meeting of States Parties.

Article 12

Archives

The archives and documents of the Tribunal shall be inviolable at any time and wherever they may be located. The location of the archives of the Tribunal shall be made known to the competent authorities if it is at a place other than in the headquarters district.

Article 13

Social security and pension funds

1. The Tribunal, its Members and officials shall be exempt from all compulsory contributions to the social security scheme of the host country in the event that they do not participate in such scheme, if they are covered by a social security scheme providing adequate benefits for them in accordance with international practice.

2. Voluntary participation in the national social security scheme of the host country shall be in accordance with the laws of the Federal Republic of Germany.

3. Any pension fund established by the Tribunal with separate property and assets shall have legal capacity in accordance with the laws of the Federal Republic of Germany if the Tribunal so requests, and shall enjoy the same exemptions, immunities and privileges as the Tribunal itself.

Article 14

Exemption from taxation, customs duties and import or export restrictions

1. Within the scope of its official activities, the Tribunal, its assets and property, its income, and its operations and transactions shall be exempt from all direct taxation. Goods imported for the use of the Tribunal shall be exempt from all customs duties. This exemption shall also apply to prohibitions and restrictions in respect of all goods imported and exported by the Tribunal. Direct taxes shall be considered to be all taxes whether levied directly by the Federal Government, by a Land (State), or any other regional or local authority and such taxes shall, in particular, include income tax or corporate tax, trade tax, property tax and land tax. The motor vehicles belonging to or operated by the Tribunal shall, upon notification, be exempted from motor vehicle tax.

2. In the purchase of goods or services necessary for the official activities of the Tribunal, when the price of such goods or services includes taxes or duties, the Government shall grant exemption from such taxes or duties or provide for their reimbursement.

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3. Goods imported or purchased under an exemption shall not be sold or otherwise disposed of in the territory of the host country except under conditions agreed with the competent authorities.

4. In particular, it is understood that no exemption from taxes will be claimed which are in fact no more than charges for public utility services.

5. The salaries, allowances, compensation and other emoluments of the Members and *ad hoc* Members and the Registrar of the Tribunal shall be free from all taxation in accordance with article 18, paragraph 8, of the Statute. Similarly, the other officials of the Tribunal shall also be exempt from income or other taxes imposed by the competent authorities.

Article 15

Freedom from currency restrictions

The Tribunal shall not be subject to financial controls, regulations or moratoria of any kind in carrying out its activities and may receive and hold funds and securities and operate accounts in any currency; it may freely dispose of these assets.

Article 16

Privileges, immunities, facilities and prerogatives

The privileges, immunities, facilities and prerogatives of the individuals referred to in articles 17 to 20 are granted to the interests of the administration of justice by the International Tribunal for the Law of the Sea in order to safeguard the independent performance of their official functions and not for the personal benefit of the individuals themselves.

Article 17

Members and officials of the Tribunal

1. The privileges and immunities to be accorded to Members and officials of the Tribunal within the territory of the host country shall be consistent with those accorded to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961, and in particular they shall be accorded privileges, immunities, prerogatives and facilities as follows:

(a) The Members of the Tribunal shall be entitled to the same privileges, immunities, facilities and prerogatives as the Federal Republic of Germany accords to heads of diplomatic missions accredited to the Federal Republic of Germany. The treatment accorded to Members shall also be accorded to the Registrar of the Tribunal and to the Deputy Registrar or any other official of the Tribunal when acting as Registrar;

(b) The Deputy Registrar of the Tribunal shall be entitled to the same privileges, immunities, facilities and prerogatives as are accorded to counsellors attached to diplomatic missions in the Federal Republic of Germany;

(c) The other officials of the Tribunal shall be entitled to the same privileges, immunities, facilities and prerogatives as the Federal Republic of Germany accords to officials of comparable rank attached to diplomatic missions in the Federal Republic of Germany.

2. The spouses and unmarried children of Members of the Tribunal, the Registrar and the officials of the Tribunal shall receive the same treatment as the Member or official concerned if they live in the same household and are without employment in the host country.

3. The domestic staff of the Members and officials of the Tribunal, if they are not nationals or permanently resident in the Federal Republic of Germany, shall be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the Federal Republic of Germany. However, the Federal Reublic of Germany must exercise its jurisdiction over such persons in such a manner as not to interfere unduly with the performance of the functions of the Tribunal.

4. The Members of the Tribunal shall enjoy the treatment provided for in this article even after the expiry of their terms of office if they continue to exercise their functions.

5. In order to secure complete freedom of speech and complete independence in the discharge of their duties, the Members and officials of the Tribunal shall continue to enjoy immunity from legal process in respect of words spoken and written and all acts done by them in the discharge of their duties even when they are no longer engaged in the business of the Tribunal.

6. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the host country.

Article 18

Ad hoc Members and experts appointed under article 289 of the Convention

The privileges, immunities, facilities and prerogatives accorded to Members of the Tribunal, their families and households, in accordance with article 17, shall apply, mutatis mutandis, to ad hoc Members and experts appointed under article 289 of the Convention in the discharge of their duties and to their families and domestic staff while such ad hoc Members and experts are exercising their functions.

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Article 19

Agents representing parties, counsel and advocates appearing before the Tribunal

1. Agents representing parties to proceedings before the Tribunal as well as counsel and advocates appearing before it shall, without prejudice to paragraph 2, be accorded the privileges, immunities and facilities necessary for the independent exercise of their duties during their journey to and from the headquarters district, and while exercising their functions. In particular, they shall be accorded:

(a) immunity from any form of arrest or detention, or seizure of personal baggage;

(b) immunity from legal process of every kind in respect of words spoken and written and all acts done by them while discharging their duties as representatives of parties before the Tribunal, which shall continue even after they have ceased to exercise their functions;

(c) inviolability of documents and papers relevant to the exercise of their functions;

(d) the right to receive papers or correspondence by courier or in sealed bags;

(e) exemption in respect of immigration restrictions or alien registration;

(f) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. The representatives of States Parties who may be agents, counsel or advocates appearing before the Tribunal shall, nothwithstanding anything to the contrary in paragraph 1, enjoy the privileges, immunities, facilities and prerogatives which, in accordance with the Convention and international law, are accorded to diplomatic envoys.

3. For the purposes of paragraph 1, parties to proceedings before the Tribunal shall include sponsoring States, natural persons and juridical persons substituted for sponsoring States in accordance with article 190 of the Convention.

4. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the host country.

5. Upon receipt of notification from parties to proceedings before the Tribunal as to the appointment of an agent, counsel or advocate, such representative shall be provided with a certification of their status, signed by the Registrar and limited to a period reasonably required for the proceedings.

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6. The Registrar shall notify the competent authorities of the appointment of authorised agents, counsel or advocates of parties, indicating the prospective period for which their presence at and travel within the host country will be required.

7. The competent authorities shall accord the privileges, immunities, facilities and prerogatives of agents, counsel and advocates provided in this article upon production of the certification referred to in paragraph 5.

Article 20

Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded the privileges, immunities and facilities necessary for the independent exercise of their functions while on mission and during their journey to and from the headquarters district. In particular, they shall be accorded the privileges, immunities and facilities accorded to agents, counsel and advocates under article 19, paragraph 1, subparagraphs (a) to (f).

2. Witnesses and experts appointed pursuant to article 67 of the Rules and persons performing missions shall be accorded the same privileges and immunities as are accorded to agents, counsel and advocates under article 19, paragraph 1, provided that a witness or expert who is a diplomatic envoy of a State Party shall be accorded the same treatment accorded to agents, counsel or advocates who are diplomatic envoys under article 19, paragraph 2.

3. The federal, state or local authorities of the Federal Republic of Germany shall not impose any impediment to the transit to and from the headquarters district of persons invited to the headquarters district by the Tribunal on official business. The competent authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district. Such persons shall *mutatis mutandis* enjoy the privileges, immunities and facilities accorded to persons performing official missions for the Tribunal in accordance with this article.

4. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the host country.

Article 21

Nationals and residents of the host country

1. The Members and officials of the Tribunal and persons referred to in articles 17 to 20 who may be nationals or residents of the host country are not subject to local jurisdiction in respect of words spoken or written and any act performed by them in their official capacity and within the scope of their duties.

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2. Nationals or residents of the host country who are officials of the Tribunal of whatever rank are exempt from direct taxation on the remunerations paid to them from the Tribunal's budget in accordance with article 14, paragraph 5.

Article 22

Waiver

1. A State Party not only has the right but is under a duty to waive the immunity of its representatives referred to in articles 19 and 20 in any case where in the opinion of the State Party and the Tribunal the immunity would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

2. The right and the duty to waive immunity of representatives of parties who may be agents, counsel or advocates appearing before the Tribunal and witnesses or experts appearing at the instance of such parties, other than diplomatic agents or envoys of a State Party, shall lie with the Tribunal, after hearing the individual concerned, by a unanimous decision of its available Members, which includes a two-thirds majority of its membership, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

3. The right and the duty to waive immunity of the Registrar or Deputy Registrar when acting as Registrar and of experts appointed under article 289 of the Convention, shall lie with the Tribunal, after hearing the individual concerned, by a unanimous decision of its available Members, which includes a two-thirds majority of its membership and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

4. The right and the duty to waive immunity of witnesses appearing at the instance of, and experts and persons performing missions by order of, the Tribunal, and invitees referred to in article 20, paragraph 3, shall lie with the Tribunal, after hearing the individual concerned, by a unanimous decision of its available Members, which includes a two-thirds majority of its membership and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

5. The right and the duty to waive immunity of the Deputy Registrar or other officials or staff of the Tribunal and members of their households shall lie with the Registrar, with the President's approval and after hearing the individual concerned, and where, in the Registrar's opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede

the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

Article 23

Laissez-passer, identity cards and notifications

1. The competent authorities recognize and accept laissez-passer issued by the International Tribunal for the Law of the Sea to the Members of the Tribunal and officials of the Tribunal as valid travel documents, taking into account the provisions of article 24, paragraph 5.

2. The Registrar shall, on behalf of the Tribunal, furnish persons referred to in articles 18 to 20 with an identity card stating the name, date and place of birth and the number of passport or number of national identity card and bearing a photograph and signature of the person concerned. This identity card shall serve to identify the holder and his official capacity in relation to the Tribunal, to the competent authorities.

3. The Registrar shall notify the competent authorities when any person mentioned in article 17 of this Agreement takes up or relinquishes his duties, and shall periodically send the competent authorities a list of all such persons with information as to the name, date and place of birth, nationality, home address, functions before the Tribunal and the anticipated duration of service.

4. The Registrar shall notify the competent authorities of the nomination of agents, counsel and advocates referred to in article 19 of this Agreement. When attendance before the Tribunal by a person referred to in articles 19 and 20 of this Agreement is required, the Registrar shall notify the appropriate authorities immediately. This information shall state the name, date and place of birth and home address of the person concerned as well as his functions before the Tribunal and the anticipated duration of his functions.

Article 24

Entry, transit and sojourn in the host country

1. The competent authorities shall take all necessary measures to facilitate the entry into and sojourn in the host country, and shall place no impediment in the way of departure from the host country, of the persons referred to in articles 17 to 20 and also ensure them the necessary protection.

2. The competent authorities shall ensure that no impediment is placed in the way of their transit to or from the headquarters seat and shall afford them the necessary protection.

3. Paragraph 1 of this article shall not apply in the case of general interruptions of transportation, and shall not impair the effectiveness of generally applicable laws relating to the operation of means of transportation.

4. Visas which may be required by persons referred to in articles 17 to 20 shall be granted without charge and as promptly as possible.

5. Applications for visas (where required) from the Members of the Tribunal and the Registrar should be dealt with as speedily as possible. All other holders of laissez-passer should receive the same facilities when their applications for visas are accompanied by a certificate that they are travelling on the business of the Tribunal. In addition, all holders of laissez-passer should be granted facilities for speedy travel.

6. Similar facilities to those specified in paragraph 5 should be accorded to witnesses, experts and other persons who, though not the holders of laissez-passer delivered by the Tribunal, have a certificate that they are travelling on the business of the Tribunal.

7. No activity performed by any person referred to in articles 17 to 20 in his official capacity with respect to the Tribunal shall constitute a reason for preventing his entry into or his departure from the territory of the host country or for requiring him to leave such territory.

8. It is understood that the persons referred to in articles 17 to 20 are not exempt from any reasonable application of the internationally accepted rules governing quarantine and public health.

Article 25

Security

1. Nothing in the present agreement shall affect the right of the Federal Republic of Germany to take, with the approval of the President of the Tribunal, the precautions necessary for its security or for the maintenance of public order.

2. If the Federal Republic of Germany considers it necessary to apply paragraph 1 of this article, it shall approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

Article 26

Responsibility, liability and insurance

1. The Federal Republic of Germany shall not incur by reason of the location of the headquarters seat of the Tribunal within its territory any international responsibility for acts or omissions of the Tribunal or of its officials acting or abstaining from acting within the scope of their functions other than the international responsibility which the Federal Republic of Germany would incur as a State Party.

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2. Without prejudice to its immunities under this Agreement or the Protocol on privileges and immunities, the Tribunal shall carry insurance to cover liability for any injury or damage arising from the activities of the Tribunal in the host country or from its use of the headquarters site or buildings erected thereon, that may be suffered by persons other than officials of the Tribunal, or by the Government. To this end, the competent authorities shall secure for the Tribunal, at reasonable rates, insurance coverage permitting claims to be submitted directly to the insurer by parties suffering injury or damage. Such claims and liability shall, without prejudice to the privileges and immunities of the Tribunal, be governed by the laws of the host country

Article 27

Co-operation with the competent authorities

1. The Tribunal shall co-operate at all times with the competent authorities to facilitate to the extent possible the proper administration of justice, secure the observance of police regulations and prevent any abuse in connection with the privileges, immunities and facilities accorded to officials of the Tribunal, experts appointed under article 289 of the Convention, experts and persons performing missions and their families.

2. If the Government considers that there has been an abuse of privilege or immunity conferred by this Agreement, consultations will be held between the competent authorities and the President of the Tribunal to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to the Government and to the Tribunal, either party may submit the question as to whether such an abuse has occurred for resolution in accordance with the provisions on settlement of disputes under article 30.

3. The Government may only require persons referred to in articles 17 to 20 of the present Agreement, other than Members, *ad hoc* Members, the Registrar and any other official acting as Registrar or representatives of States Parties, to leave the country on account of any activities performed by them which are an abuse of the right of residence in the host country and are not directly related to, or incidental to the performance of, official functions, with the approval of the Secretary of State for External Affairs of the Federal Republic of Germany, after consultation with the Registrar in the case of officials of the Tribunal, and the President of the Tribunal in the case of the other persons herein referred to. Representatives of States Parties other than agents representing such States Parties in proceedings before the Tribunal may only be required to leave the country in accordance with the diplomatic procedure applicable to diplomatic envoys accredited to the Federal Republic of Germany.

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Article 28

Supplementary agreements

The Tribunal and the Government of the Federal Republic of Germany may conclude supplementary agreements adjusting the provisions of this agreement so far as this is deemed desirable.

Article 29

Application of the relevant agreements on the privileges and immunities of the Tribunal

The provisions of this Agreement shall be considered supplementary to the provisions of the Protocol. When a provision of this Agreement and a provision of the Protocol deal with the same subject, both provisions shall be considered complementary wherever possible; both of them shall be applied and neither shall restrict the force of the other.

Article 30

Settlement of disputes

1. The Tribunal shall make suitable provisions for the satisfactory settlement of:

(a) disputes arising out of contracts and disputes of a private law character to which the Tribunal is a party;

(b) disputes involving any person within the scope of article 27, paragraph 3, who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with article 22.

2. Any dispute between the Tribunal and the competent authorities arising out of or concerning the interpretation or application of this Agreement or of any supplementary agreement, or any question affecting the headquarters or the relationship between the Tribunal and the Government which is not settled by consultation, negotiation or other agreed mode of settlement, shall be referred, at the request of either party to the dispute, for a final and binding decision to a panel of three arbitrators, one to be chosen by the Tribunal, one to be chosen by the Government, and the third, who shall be the Chairman of the panel, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third member within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations within one month of the request of the Tribunal or the Government. If either party to this Agreement has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall make such appointment within one month thereafter.

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Article 31

Amendments

The provisions of this Agreement may only be amended by agreement between the Tribunal and the Government.

Article 32

Final provisions

1. This Agreement shall enter into force thirty days after its signature on behalf of the Government and on behalf of the Tribunal.

2. The agreement shall apply provisionally immediately upon the signatures of the duly authorised representatives of the Tribunal and the Federal Republic of Germany.

DONE and signed at __________ in duplicate, in the English and German languages, both versions being equally authentic, on this ____ day of ______, 19__.

Annex

[Specifications as to site, buildings, etc.]

LOS/PCN/SCN.4/WP.5/Rev.1/Corr.1
29 August 1988

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 15 August-2 September 1988

REVISED DRAFT HEADQUARTERS AGREEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE FEDERAL REPUBLIC OF GERMANY

(Prepared by the Secretariat)

Corrigendum

Page 2, explanatory note, paragraph 1, line 6

For (LOS/PCN/SCN.4/L.10/Add.1 and L.11 and Add.1) read (LOS/PCN/SCN.4/L.11 and Add.1)

/...

LOS/PCN/SCN.4/WP.6
23 March 1988

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
Kingston, Jamaica
14 March-8 April 1988

DRAFT CONVENTION/PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Prepared by the Secretariat)

Introductory Note

Special Commission 4 of the Preparatory Commission requested the Secretariat to prepare a draft for a convention, protocol or other multilateral instrument to provide for the privileges and immunities of the Tribunal. It was noted in this context that the Convention does not have specific provisions dealing with the question of privileges and immunities of the Tribunal or of its staff and others who may participate in the proceedings before the Tribunal. The Special Commission was of the view that the legal capacity of the Tribunal should also be dealt with in such an instrument.

In response to this request and taking into account the discussions in Special Commission 4 on these questions as well as the discussions on related issues, the Secretariat presents this working paper. In the preparation of the working paper, particular regard was had for the precedent relating to the International Court of Justice as well as that relating to the United Nations and other international organizations. It is relevant to note that the existing precedent was not always followed in view of the unique character of the Tribunal, bearing in mind the range of disputes that may be submitted to it as well as the diversity of the entities having access to it or entitled to participate in proceedings before it.

This working paper, though in the form of a draft convention/protocol is submitted only as a basis for identifying and examining the relevant issues.

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CONVENTION/PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(adopted by the Meeting of States Parties to the United Nations Convention on the Law of the Sea)

WHEREAS the United Nations Convention on the Law of the Sea provides for the establishment of the International Tribunal for the Law of the Sea in accordance with article 287, paragraph 1(a) and the Statute of the Tribunal in Annex VI thereof and

RECOGNIZING that the Tribunal shall enjoy in the territory of each State Party such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purpose and

RECOGNIZING ALSO that the Tribunal shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes and

WHEREAS the Statute of the Tribunal, Annex VI of the Convention, provides in accordance with Article 10 thereof that the Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities and

RECOGNIZING that representatives of States Parties and of other parties to disputes or proceedings, officials and other functionaries of the Tribunal shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Tribunal;

CONSEQUENTLY the Meeting of States Parties to the Convention by a Resolution adopted on the ... approved the following Convention/Protocol and proposed it for accession by each State Party .

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Article 1

Juridical personality

1. The Tribunal shall possess juridical personality.

It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

2. In these matters the Registrar will act on behalf of the Tribunal.

Article 2

Property, funds and assets

1. The Tribunal, its property and assets wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The premises of the Tribunal shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative action.

Article 3

Archives

The archives of the Tribunal, and all documents belonging to it or held by it, shall be inviolable wheresoever located.

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Article 4

Funds and currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoria of any kind:

(a) the Tribunal may hold funds, gold or currency of any kind and operate accounts in any currency;

(b) the Tribunal shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) the Tribunal may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by the government of any State Party insofar as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

Article 5

Exemption from taxes and custom duties

The Tribunal, its assets, income and other property shall be exempt:

(a) from all direct taxes; it is understood, however, that the Tribunal will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported, except under conditions agreed with the Government of that country;

(c) from all customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

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Article 6

Reimbursement of duty or tax

The Tribunal shall not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Tribunal is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, States Parties shall, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 7

Facilities in respect of communications

1. The Tribunal shall enjoy in the territory of each State Party for its official communications treatment not less favourable than that accorded by the Government of that State Party to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other forms of communications including telecommunications or data transfer; and press rates for information to the press and radio.

2. No censorship shall be applied to the official correspondence and other official communications of the Tribunal.

3. The Tribunal shall have the right to use codes and to despatch and receive its correspondence by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

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Article 8

Members of the Tribunal

1. Members, while exercising their functions in any country, shall, pursuant to article 10, Annex VI of the United Nations Convention on the Law of the Sea, enjoy the privileges, immunities and facilities as are accorded to heads of diplomatic missions accredited to that country. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic agents in accordance with the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

2. Members shall be accorded every facility for leaving the country where they may happen to be for entering the country where the Tribunal is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they shall, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys.

3. Members of the Tribunal, for the purpose of holding themselves permanently at the disposal of the Tribunal, shall be accorded diplomatic privileges and immunities during the period of their residence in any country other than their own.

4. In order to secure, for the members, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer performing those functions.

5. Where the incidence of any form of taxation depends upon residence, periods during which the members are present in a State for the discharge of their duties shall not be considered as periods of residence.

6. Members shall be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

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7. Privileges and immunities are accorded to the Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

8. This article shall also apply to Members ad hoc.

Article 9

Representatives of States Parties

1. Representatives of States Parties, including agents, counsel and advocates so designated by States Parties, while exercising their functions in relation to the Tribunal and during their journey to and from the place where the Tribunal is sitting shall enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

(b) Inviolability for all papers and documents;

(c) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) Exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations in the State they are visiting or through which they are passing in the exercise of their functions;

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys, and also

(g) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy in accordance with the Vienna Convention on Diplomatic Relations adopted on 18 April 1961, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from indirect taxes or sales tax.

2. In order to secure, for such representatives of States Parties appearing before the Tribunal, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer performing those functions.

3. Where the incidence of any form of taxation depends upon residence, periods during which such representatives of State Parties appearing before the Tribunal are present in a State for the discharge of their duties shall not be considered as periods of residence.

4. Representatives of States shall be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

5. Privileges and immunities are accorded to such representatives of States Parties not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal. Consequently a State Party not only has the right but is under a duty to waive the immunity of its representative, including its agent, counsel or advocate so designated by it, in any case where the Tribunal so recommends and in the opinion of the State Party the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

6. The provisions of paragraphs 1, 2 and 3 are not applicable as between the person and the authorities of the State of which he is a national or of which he is or has been a representative, or agent, counsel or advocate so designated.

7. This article also applies mutatis mutandis to representatives of sponsoring States.

Article 10

Agents, counsel and advocates

1. Agents representing parties to proceedings before the Tribunal as well as counsel and advocates appearing for them before the Tribunal shall be accorded the privileges, immunities and facilities necessary for the independent exercise of their duties, while exercising their functions, and during their journey to and from the place where the Tribunal is sitting. In particular, they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) immunity from legal process of every kind in respect of words spoken and written and all acts done by them while discharging their duties as representatives of parties before the Tribunal, which shall continue even after they have ceased to exercise their functions;

(c) inviolability of documents and papers;

(d) the right to receive papers or correspondence by courier or in sealed bags;

(e) exemption in respect of immigration restrictions or alien registration;

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(f) the same immunities and facilities in respect of personal baggage as are accorded to diplomatic envoys;

(g) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions.

2. Agents, counsel and advocates shall be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

3. Privileges and immunities are accorded to such agents, counsel and advocates not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal. Consequently the Tribunal not only has the right but is under a duty to waive the immunity of such agents, counsel or advocates appearing in proceedings before it, in any case where in the opinion of the Tribunal the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

4. This article also applies _mutatis mutandis_ to natural persons who are parties to proceedings. It also applies to agents representing juridical persons substituted for sponsoring states in accordance with article 190 of the Convention as well as to counsel and advocates appearing for them before the Tribunal.

Article 11

Officials

1. Officials of the Tribunal shall enjoy in any country where they may be on the business of the Tribunal, or in any country through which they may pass on such business, such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

2. The Registrar and any official of the Tribunal, acting as Registrar, should, while on the business of the Tribunal, be accorded diplomatic privileges and immunities. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic envoys, in accordance with the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

3. The treatment accorded to the Registrar and other officials shall be extended to their spouses and dependent children.

4. The Registrar will specify the categories of officials to which the provisions of this Article shall apply. He shall submit these categories to the Tribunal. These categories shall also be communicated to the Governments of all States Parties. The names of the officials included in these categories shall from time to time be communicated to the Governments of States Parties.

5. Officials of the Tribunal shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the Tribunal;

/...

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned in accordance with international law and practice;

(f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to re-export the same free of duty to their country of domicile.

6. Privileges and immunities are granted to officials in the interests of the Tribunal and not for the personal benefit of the individuals themselves. The Registrar, with the President's approval, shall have the right and the duty to waive the immunity in any case where, in his opinion, the immunity would impede the course of justice, and can be waived without prejudice to the interests of the Tribunal. In the case of the Registrar, the Tribunal by its unanimous decision shall have the right to waive immunity.

Article 12

Experts appointed under article 289 of the Convention

1. Experts appointed under article 289 of the Convention shall be accorded, during the period of their missions including the time spent on journeys in connection with their missions, such privileges and immunities as are necessary for the independent exercise of their functions. In particular they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) in respect of words spoken or written and acts done by them in the course of the performance of their functions, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded even after they have ceased to exercise their functions;

(c) inviolability for all papers and documents;

(d) for the purpose of their communications with the Tribunal, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

2. Such experts shall be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

3. Privileges and immunities are granted to such experts in the interests of the Tribunal and not for the personal benefit of the individuals themselves. The Tribunal shall have the right and the duty to waive the immunity of any such expert in any case where, in its opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Tribunal.

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Article 13

Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded, during the period of their mission, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities necessary for the independent exercise of their functions. In particular, they shall be accorded the privileges, immunities and facilities accorded to Experts appointed under Article 289 of the Convention, as provided in Article 12, paragraphs 1, subparagraphs (a) to (f), and 2.

2. Article 12, paragraph 3, shall apply mutatis mutandis to witnesses, experts and persons performing missions.

Article 14

Laissez-passer

1. The Tribunal may issue laissez-passer to the Members of the Tribunal, the Registrar and the officials of the Tribunal. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of States Parties, taking into account the provisions of paragraph 3.

2. Members of the Tribunal, the Registrar and the Deputy Registrar travelling on a laissez-passer issued by the Tribunal, on the business of the Tribunal shall be granted the same facilities as are accorded to diplomatic envoys.

3. Applications for visas (where required) from the Members of the Tribunal and the Registrar shall be dealt with as speedily as possible. Applications from all other holders of laissez-passer issued by the Tribunal, when accompanied by a certificate that they are travelling on the business of the Tribunal, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

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4. Similar facilities to those specified in paragraph 3 shall be accorded to the persons referred to in articles 9 to 13, who, though not the holders of laissez-passer issued by the Tribunal, have a certificate that they are travelling on the business of the Tribunal.

Article 15

Cooperation with the Authorities

The Tribunal shall co-operate at all times with the appropriate authorities of States Parties to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurence of any abuse in connection with the privileges, immunities and facilities mentioned in this instrument.

Article 16

Restrictions by a national government

1. No administrative or other restrictions shall be imposed on the free movement of Members of the Tribunal, and other persons referred to in articles 9 to 13 of this convention/protocol, to and from the headquarters of the Tribunal or the place where the Tribunal is sitting.

2. Members of the Tribunal and the Registrar shall, in the matter of customs and exchange control be accorded by their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official duty.

Article 17

Settlement of disputes

1. The International Tribunal shall make provisions for appropriate modes of settlement of:

(a) disputes arising out of contracts or other disputes of a private law character to which the Tribunal is a party;

(b) disputes involving any official or functionary of the Tribunal who by reason of his official position enjoys immunity, if immunity has not been waived by the Registrar with the approval of the President in the case of officials, or by the Tribunal in the case of functionaries referred to in Articles 10, 12 and 13.

2. All differences arising out of the interpretation or application of the present convention/protocol shall be referred to an arbitral tribunal in accordance with the following procedure unless the parties have agreed to another mode of settlement. If a difference arises between the Tribunal on the one hand and a State Party on the other hand, which is not settled by negotiation or other agreed mode of settlement, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Tribunal, one to be chosen by the State Party, and the third, who shall be chairman of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other party, the Secretary-General of the United Nations shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third member within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations upon the request of the Tribunal or the State Party.

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Article 18

Final provisions

1. This convention/protocol is submitted to every State Party for accession.

2. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations who shall promptly transmit a copy thereof to the Registrar of the Tribunal. The convention/protocol shall come into force as regards each State Party on the date of deposit of each instrument of accession.

3. The Secretary-General of the United Nations shall inform all States Parties of the deposit of each instrument of accession.

4. It is understood that, when an instrument of accession is deposited on behalf of any State Party, the State Party will be in a position under its own law to give effect to the terms of this convention/protocol.

5. This convention/protocol shall continue in force as between the Tribunal and every State Party which has deposited an instrument of accession for so long as that State Party remains a State Party to the United Nations Convention on the Law of the Sea, or until a revised convention/protocol has been approved by a meeting of States Parties and that State Party has become a party to the revised convention/protocol.

6. The Registrar may conclude with any State Party or States Parties supplementary agreements adjusting the provisions of this convention/protocol so far as that State Party or those States Parties are concerned. These supplementary agreements shall in each case be subject to the approval of a meeting of States Parties to the Convention.

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LOS/PCN/SCN.4/WP.6/Rev.1
25 February 1991

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
Kingston, Jamaica
25 February-22 March 1991

REVISED DRAFT PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Prepared by the Secretariat)

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Explanatory Note

1. The draft Protocol on the privileges and immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6) was reviewed by Special Commission 4 during the seventh session (27 February to 23 March 1989) and the summer meeting of the Preparatory Commission (14 August to September 1989). The discussions are reflected in the Chairman's summaries (LOS/PCN/SCN.4/L.13 and Add.1).

2. At the conclusion of its consideration of the draft, the Special Commission requested the Secretariat to prepare a revision of the draft in the light of the discussions, taking into account the matters on which there was agreement, the views expressed and the suggestions made by delegations, including the drafting suggestions handed to the Secretariat.

4. The revised draft presented by the Secretariat reflects those matters on which there was agreement within the Commission. Where there was no consensus, the general thrust of the views expressed by delegations has been reflected. On matters where there was a divergence of views, except where there was an overwhelming preference, the text attempts to provide a compromise. In all cases, the formulations used have attempted to follow the most appropriate precedent and practice.

5. Given that it is not possible to reflect in a single draft every nuance of opinion, the draft must be viewed as an attempt to achieve the stated objective while maintaining those requirements that were considered most important or relevant by the Special Commission.

Page

Article 1. Use of terms 226

Article 2. Juridical personality and capacity 227

Article 3. Immunity of the Tribunal, its property and assets 227

Article 4. Exercise of the functions of the Tribunal outside the host country 228

Article 5. Archives 228

Article 6. Funds and freedom from currency restrictions 228

Article 7. Exemption from taxes and custom duties 228

Article 8. Reimbursement of duty or tax 229

Article 9. Facilities in respect of communications 229

Article 10. Members of the Tribunal 229

Article 11. Agents representing parties, counsel and advocates designated to appear before the Tribunal 230

Article 12. Officials 231

Article 13. Experts appointed under article 289 of the Convention 232

Article 14. Witnesses, experts and persons performing missions ... 233

Article 15. Respect for law and regulations 233

Article 16. Waiver 234

Article 17. Taxation 235

Article 18. Laissez-passer 235

Article 19. Co-operation with the authorities of States Parties .. 235

Article 20. Maintenance of security and public order 236

Article 21. Restrictions by a national government 236

Article 22. Settlement of disputes 236

Article 23. Final provisions 237

/...

REVISED DRAFT PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(adopted by the Meeting of States Parties to the United Nations Convention on the Law of the Sea)

WHEREAS the United Nations Convention on the Law of the Sea provides for the establishment of the International Tribunal for the Law of the Sea in accordance with article 287, paragraph 1(a) and the Statute of the Tribunal in Annex VI thereof and

RECOGNIZING that the Tribunal shall enjoy in the territory of each State Party such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purpose and

RECOGNIZING ALSO that the Tribunal shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes and

WHEREAS the Statute of the Tribunal, Annex VI of the Convention, provides in accordance with Article 10 thereof that the Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities and

RECOGNIZING that representatives of States Parties and of other parties to disputes or proceedings, officials and other functionaries of the Tribunal shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Tribunal;

CONSEQUENTLY the Meeting of States Parties to the Convention by a Resolution adopted on the ... approved the following Protocol and proposed it for accession by each State Party.

Article 1

Use of terms

For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea;

(b) "Statute" means the Statute of the International Tribunal for the Law of the Sea, annex VI of the Convention;

(c) "Rules" means the Rules of the International Tribunal for the Law of the Sea;

(d) "States Parties" shall have the same meaning as referred to in article 1 of the Convention;

(e) "Tribunal" means the International Tribunal for the Law of the Sea;

(f) "Authority" means the International Sea-Bed Authority;

/...

(g) "Parties to proceedings" means States Parties, other States, entities other than States, the Authority, natural and juridical persons and sponsoring States or entities substituted for parties to proceedings in accordance with article 190 of the Convention;

(h("Government" means the Government of a State Party;

(i) "Authorities of a State Party" means such authorities in the country of the State Party as may be appropriate in the context and in accordance with the laws, regulations and customs of that country, including the laws, regulations and customs of the local authorities involved;

(j) "Member" means an elected member of the Tribunal as referred to in article 2 of the Statute and article 2 of the Rules;

(k) "Ad hoc member" means a person chosen under article 17 of the Statute for the purpose of a particular case;

(l) "Officials of the Tribunal" means the Registrar and other members of the staff of the Registry;

(m) "Expert" means a person called at the instance of a party to a dispute or at the instance of the Tribunal to present testimony in the form of expert opinions, based on his special knowledge, skills, experience or training;

(n) "Expert appointed under article 289 of the Convention" means a person appointed in accordance with that article to sit with the Tribunal;

(o) "Functionary of the Tribunal" means any person referred to in articles 11, 12, 13 and 14 of this Protocol.

Article 2
Juridical personality and capacity

The Tribunal shall possess juridical personality. It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

Article 3
Immunity of the Tribunal, its property and assets

1. The Tribunal shall enjoy immunity from legal process and execution in connection with its activities, except in so far as in any paticular case it has expressly waived its immunity.

2. The property and assets of the Tribunal wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference, whether by administrative, judicial or legislative action.

3. The premises of the Tribunal shall be inviolable.

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4. The immunity referred to in paragraphs 1 and 2 shall not extend to an action for damages arising from an accident involving a vehicle the use of which may have entailed the liability of the Tribunal to the extent that those damages are not recoverable from insurance. Pursuant to the laws and regulations of the host country, or the transit State, the Tribunal shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by it.

Article 4
Exercise of the functions of the Tribunal outside the host country

In the event the Tribunal will sit and exercise its functions in accordance with Annex VI, article 1, paragraph 3 of the Convention, the State Party concerned should provide the appropriate facilities in accordance with international practice. Upon request of the Tribunal, the State Party concerned shall conclude an arrangement covering such matters as soon as possible.

Article 5
Archives

The archives of the Tribunal, and all documents belonging to it or held by it, shall be inviolable wheresoever located.

Article 6
Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoria of any kind, whilst carrying out its activities:

(a) the Tribunal may hold funds or currency of any kind and operate accounts in any currency;

(b) the Tribunal shall be free to transfer its funds or currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) the Tribunal may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by the government of any State Party to this Protocol in so far as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

Article 7
Exemption from taxes and custom duties

1. The Tribunal, its assets, income and other property shall be exempt from all direct taxes; it is understood, however, that the Tribunal shall not claim exemption from taxes which are no more than changes for public utility services.

2. The Tribunal shall be exempt from all custom duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported, except under conditions agreed with the government of that country. The Tribunal shall also be exempt from all custom duties, prohibitions and restrictions on imports and exports in respect of its publications.

Article 8
Reimbursement of duty or tax

The Tribunal shall not, as a general rule, claim exemption from duties and taxes included in the price of movable and immovable property and of services. Nevertheless, when the Tribunal is making important purchases for official use of property, goods and services, on which duties and taxes have been charged or are chargeable, States Parties shall, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Article 9
Facilities in respect of communications

1. For the purposes of its official communications, the Tribunal shall enjoy in the territory of each State Party treatment not less favourable than that which the State Party accords to any intergovernmental organization or government in the matter of priorities, rates and taxes applicable to mails and the various forms of telecommunications.

2. The Tribunal may use all appropriate means of communications and make use of codes for its official communications. The States Parties shall not apply any censorship or any other form of interception, interference or restriction of such communications.

3. The Tribunal may dispatch and receive its correspondence by courier or in bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

Article 10
Members of the Tribunal

1. Members of the Tribunal, while exercising their functions in the territory of each State Party, shall, pursuant to article 10, Annex VI of the United Nations Convention on the Law of the Sea, enjoy the privileges, immunities and facilities as are accorded to heads of diplomatic missions accredited to that country. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic agents in accordance with international law and the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

2. Members and members of their families forming part of their households shall be accorded every facility for leaving the country where they may happen to be for entering the country where the Tribunal is sitting, and again for leaving it. On journeys in connection with the exercise of their functions,

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they shall, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic agents.

3. Members of the Tribunal, for the purpose of holding themselves permanently at the disposal of the Tribunal, shall be accorded diplomatic privileges and immunities during the period of their residence in any country other than their own.

4. In order to secure, for the members, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer performing those functions.

5. Members shall be given, together with members of their families forming part of their households, the same repatriation facilities in time of international crises as diplomatic agents are given under international law and the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

6. Privileges and immunities are accorded to the Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

7. This article shall apply to Members even after the expiry of their terms of office if they continue to exercise their functions. It shall also apply to Members ad hoc.

Article 11
Agents representing parties, counsel and advocates designated to appear before the Tribunal

1. Agents representing parties to proceedings before the Tribunal as well as counsel and advocates designated to appear before it shall, without prejudice to paragraph 2, be accorded the privileges, immunities and facilities necessary for the independent exercise of their duties during their journey to and from the place where the Tribunal is sitting, and while exercising their functions. In particular, they shall be accorded:

(a) immunity from any form of arrest or detention, or seizure of personal baggage;

(b) immunity from legal process of every kind in respect of words spoken and written and all acts done by them while discharging their duties as representatives of parties before the Tribunal, which shall continue even after they have ceased to exercise their functions;

(c) inviolability of documents and papers relevant to the exercise of their functions;

(d) the right to receive papers or correspondence by courier or in sealed bags;

(e) exemption in respect of themselves and their spouses from immigration restrictions or alien registration;

(f) the same facilities in respect of their personal baggage, currency or exchange transactions as are accorded to representatives of foreign Governments on temporary official missions.

2. The representatives of States Parties who may be agents, counsel or advocates appearing before the Tribunal shall, notwithstanding anything to the contrary in paragraph 1, enjoy the privileges, immunities, facilities and prerogatives which, in accordance with the Convention and international law, are accorded to diplomatic envoys.

3. For the purposes of paragraph 1, parties to proceedings before the Tribunal shall include States Parties, other States, entities other than States, the Authority, natural and juridical persons, and sponsoring States or entities substituted for parties to proceedings in accordance with article 190 of the Convention.

4. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the country in which such individual is present.

5. The competent authorities of the state concerned shall accord the privileges, immunities facilities and prerogatives of agents, counsel and advocates provided in this article upon production of a certification of their status signed by the Registrar of the Tribunal.

6. Agents, counsel and advocates referred to in this article shall be given the same repatriation facilities in time of international crises as diplomatic envoys are given under international law and the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

7. Where the incidence of any form of taxation depends upon residence, periods during which such agents, counsel or advocates are present in a State for the discharge of their duties shall not be considered as periods of residence.

Article 12
Officials

1. Officials of the Tribunal shall enjoy in any country where they may be on the business of the Tribunal, or in any country through which they may pass on such business, such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

2. The Registrar and any official of the Tribunal, acting as Registrar, should, while on the business of the Tribunal, be accorded diplomatic privileges and immunities. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic envoys, in accordance with international law and the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

3. The treatment accorded to the Registrar and other officials shall be extended to their spouses and dependent children.

/...

4. The Registrar will specify the categories of officials to which the provisions of this Article shall apply. He shall submit these categories to the Tribunal. These categories shall also be communicated to the Governments of all States Parties. The names of the officials included in these categories shall from time to time be communicated to the Governments of States Parties.

5. Officials of the Tribunal shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid to them by the Tribunal;

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned in accordance with international law and practice;

(f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under international law and the Vienna Convention on Diplomatic Relations adopted on 18 April 1961;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to re-export the same free of duty to their country of domicile.

Article 13

Experts appointed under article 289 of the Convention

1. Experts appointed under article 289 of the Convention shall be accorded, during the period of their missions including the time spent on journeys in connection with their missions, such privileges and immunities as are necessary for the independent exercise of their functions. They shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

/...

(b) immunity from legal process of any kind in respect of words spoken or written and acts done by them in the course of the performance of their functions. This immunity from legal process shall continue to be accorded even after they have ceased to exercise their functions;

(c) inviolability for all papers and documents;

(d) exemption, together with their spouses and relatives dependent on them, in respect of immigration restrictions or alien registration;

(e) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.

2. Such experts shall be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crises as diplomatic envoys are given under international law and the Vienna Convention on Diplomatic Relations adopted on 18 April 1961.

Article 14
Witnesses, experts and persons performing missions

1. Witnesses, experts other than those appointed under Article 289 of the Convention, and persons performing missions by order of the Tribunal shall be accorded, during the period of their mission, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities necessary for the independent exercise of their functions. They shall be accorded the privileges, immunities and facilities accorded to Experts appointed under Article 289 of the Convention, as provided in Article 13, paragraph 1, subparagraphs (a) to (f).

2. Article 13, paragraph 3, shall apply *mutatis mutandis* to witnesses, experts and persons performing missions referred to in this article.

Article 15
Respect for law and regulations

Without prejudice to their privileges and immunities, it is the duty of all persons referred to in articles 10-14, to respect the laws and regulations of the State Party in whose territory they exercise official functions. They also have a duty not to interfere in the internal affairs of that State.

/...

Article 16
Waiver

1. Privileges and immunities are accorded to persons referred in articles 11 to 14 not for their personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

2. A State Party not only has the right but is under a duty to waive the immunity of its representatives referred to in article 11, paragraph 2, in any case where in the opinion of the State the immunity would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

3. The right and the duty to waive immunity of representatives of parties to proceedings before the Tribunal who may be agents, counsel or advocates appearing before the Tribunal and witnesses or experts appearing at the instance of such parties, other than diplomatic agents or envoys of a State Party, shall lie with the Tribunal, after considering the case of the individual concerned, by a unanimous decision of its available Members, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded. The Tribunal shall consult with the party that appointed such person or at whose instance the person appears before taking a decision.

4. The right and duty to waive immunity of the Registrar or Deputy Register when acting as Registrar and of experts appointed under article 289 of the Convention, shall lie with the Tribunal, after considering the case of the individual concerned, by a unanimous decision which shall include a two thirds majority of its Members, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded. In the case of agents, counsel or advocates referred to in this paragraph, the Tribunal shall consult with the party appointing such person before taking a decision.

5. The right and the duty to waive immunity of witnesses appearing at the instance of, and experts and persons performing missions by order of, the Tribunal, and invitees referred to in Article 20, paragraph 3, shall lie with the Tribunal, after considering the case of the individual concerned, by a unanimous decision of its available Members, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

6. The right and the duty to waive immunity of the Deputy Registrar or other officials or staff of the Tribunal and members of their households, shall lie with the Registrar, with the President's approval and after considering the case of the individual concerned, and where, in the Registrar's opinion, the

immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

Article 17
Taxation

1. The salaries, emoluments and allowances paid to Members, *Ad Hoc* Members and officials of the Tribunal shall be free from all taxation in accordance with the Statute.

2. Where the incidence of any form of taxation depends upon residence, periods during which such Members or officials are present in a State for the discharge of their duties shall not be considered as periods of residence.

Article 18
Laissez-passer*

1. The Tribunal may issue laissez-passer to the Members and officials of the Tribunal. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of States Parties, taking into account the provisions of paragraph 3.

2. Members of the Tribunal, the Registrar and the Deputy Registrar travelling on a laissez-passer issued by the Tribunal, on the business of the Tribunal shall be granted the same facilities as are accorded to diplomatic agents.

3. Applications for visas (where required) from the Members of the Tribunal and the Registrar shall be dealt with as speedily as possible. Applications from all other holders of laissez-passer issued by the Tribunal, when accompanied by a certificate that they are travelling on the business of the Tribunal, shall be dealt with as speedily as possible.

4. Similar facilities to those specified in paragraph 3 shall be accorded to the persons referred to in articles 11, 13 and 14, who, though not the holders of laissez-passer issued by the Tribunal, have a certificate indicating that they are travelling on the business of the Tribunal.

Article 19
Cooperation with the authorities of States Parties

1. The Tribunal shall co-operate at all times with the appropriate authorities of States Parties to facilitate the execution of their laws, including the observance of security regulations, and to prevent any abuse in connection with the privileges, immunities and facilities mentioned in this instrument.

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* In the event that arrangements are entered into with the United Nations for the issuance of laissez-passer of the United Nations, then the Tribunal may not need to issue its own laissez-passer.

/...

2. Any State Party within whose territory the Tribunal may sit or exercise its functions may take, with the approval of the President of the Tribunal, the necessary precautions for its security or for the maintenance of public order.

3. Whenever a State Party considers it necessary to apply paragraph 2 of this article, it should approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

Article 20
Maintenance of security and public order

1. If the State Party concerned considers it necessary to take, without prejudice to the independent and proper working of the Tribunal, precautions necessary for the security or for the maintenance of public order of the State Party in accordance with the norms of international law, it shall approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

2. The Tribunal shall co-operate with the government of such State Party to avoid any prejudice to the security of the State Party resulting from its activities.

Article 21
Restrictions by a national government

1. No administrative or other restrictions shall be imposed on the free movement of Members of the Tribunal, and other persons referred to in articles 10 to 14 of this Protocol, to and from the headquarters of the Tribunal or the place where the Tribunal is sitting or exercising its functions.

2. Members of the Tribunal and the Registrar shall, in the matter of customs and exchange control be accorded:

(a) by their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official duty;

(b) by the governments of other States Parties, the same facilities as are accorded to representative of foreign governments on temporary official duty.

Article 22
Settlement of disputes

1. The International Tribunal shall make provisions for appropriate modes of settlement of:

(a) disputes arising out of contracts, other disputes of a private law character to which the Tribunal is a party, and in the application of the provisions of Article 2 of this Protocol which do not include the functional immunities of the Tribunal.

(b) disputes involving any official or functionary of the Tribunal who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with article 16, paragraphs 3 to 6.

/...

2. All differences arising out of the interpretation or application of the present convention/protocol shall be referred to an arbitral tribunal in accordance with the following procedure unless the parties have agreed to another mode of settlement. If a difference arises between the Tribunal on the one hand and a State Party on the other hand, which is not settled by negotiation or other agreed mode of settlement, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Tribunal, one to be chosen by the State Party, and the third, who shall be chairman of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other Party, the Secretary-General of the United Nations shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third member within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations upon the request of the Tribunal or the State Party.

Article 23
Final provisions

1. This protocol is submitted to every State Party for accession.

2. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations who shall promptly transmit a copy thereof to the Registrar of the Tribunal. The protocol shall come into force as regards each State Party on the date of deposit of each instrument of accession.

3. The Secretary-General of the United Nations shall inform all States Parties of the deposit of each instrument of accession.

4. It is understood that, when an instrument of accession is deposited on behalf of any State Party, the State Party will be in a position under its own law to give effect to the terms of this protocol.

5. This protocol shall continue in force as between the Tribunal and every State Party which has deposited an instrument of accession for so long as that State Party remains a State Party to the United Nations Convention on the Law of the Sea, or until a revised protocol has been approved by a meeting of States Parties and that State Party has become a party to the revised protocol.

6. The Registrar may conclude with any State Party or States Parties supplementary agreements adjusting the provisions of this protocol so far as that State Party or those States Parties are concerned. These supplementary agreements shall in each case be subject to the approval of a meeting of States Parties to the Convention.

LOS/PCN/SCN.4/WP.6/Rev.1/Corr.1
27 February 1991

ENGLISH ONLY

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
Ninth session
Kingston, Jamaica
25 February-22 March 1991

REVISED DRAFT PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Prepared by the Secretariat)

Corrigendum

1. Page 9, article 11, paragraph 2, line 4

For the Convention read the Vienna Convention on Diplomatic Relations adopted on 18 April 1961

2. Page 11, article 14, paragraph 1, last line

For subparagraphs (a) to (f) read subparagraphs (a) to (e).

Page 11, article 14, paragraph 2, line 1

For paragraph 3 read paragraph 2

3. Page 12, article 16, paragraph 4, penultimate line

For in this paragraph read in this article

Page 12, article 16, paragraph 5, line 3

Delete and invitees referred to in Article 20, paragraph 3,

4. Page 14, article 22, paragraph 1 (a), line 2

For in the application of the provisions of Article 2 read and disputes relating to the application of those provisions of Article 3

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LOS/PCN/SCN.4/WP.6/Rev.1/Corr.2
12 March 1991

ARABIC/CHINESE/ENGLISH/RUSSIAN
AND SPANISH ONLY

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
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25 February-22 March 1991

REVISED DRAFT PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Preparared by the Secretariat)

Corrigendum

1. Page 4, article 1, line 1

   For this Agreement read this Protocol

2. Page 15, article 22, paragraph 2, line 2

   For present convention/protocol read present Protocol

LOS/PCN/SCN.4/WP.7
20 March 1989

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Seventh session
Kingston, 27 February-23 March 1989

ISSUES CONCERNING RELATIONSHIP AGREEMENTS BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND OTHER INTERNATIONAL ORGANIZATIONS

(Working Paper by the Secretariat)

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CONTENTS

		Paragraphs	Page
A.	GENERAL	1	243
B.	PROTOCOL	18	247
C.	CONTENT OF AGREEMENTS BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND OTHER INTERNATIONAL ORGANIZATIONS	21	248
I.	Preamble	21	248
II.	Governing principles and mutual recognition of responsibilities, rights and obligations	24	248
III.	Consultation, co-operation, co-ordination and recommendations	26	249
IV.	Reciprocol representation	31	250
V.	Written statements	35	251
VI.	Exchange of information and documents	40	252
VII.	Confidential information	41	252
VIII.	Recommendations of other international organization	44	253
IX.	Consideration of resolutions of other international organization	46	253
X.	Reports to the United Nations	48	254
XI.	Personnel Arrangements	49	254
XII.	Statistical Service	52	254
XIII.	Agenda Items	56	255
XIV.	Technical Experts	57	255

/...

Page

XV. Administrative and technical services 59 255

XVI. Budgetary and financial arrangements 61 256

XVII. Financing of special services 62 256

XVIII. Liaison 65 256

XIX. Implementation of the agreement 67 256

XX. Revision/amendment 68 257

XX1. Entry into force 69 257

D. CONTENT OF AGREEMENTS SPECIFIC TO RELATIONSHIP WITH THE UNITED NATIONS AND THE AUTHORITY 257

I. Co-operation between the UN Secretariat and the Tribunal's Registry 70 257

II. Security Council 71 257

III. International Court of Justice 74 258

IV. International Sea-Bed Authority 78 258

V. Other international organizations 79 259

VI. United Nations Laissez-Passer 80 259

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ISSUES CONCERNING RELATIONSHIP AGREEMENTS BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND OTHER INTERNATIONAL ORGANIZATIONS

A. General

1. It has earlier been the practice for the constitutive body of inter-governmental organizations to adopt a protocol authorizing the organization to enter into appropriate relationship arrangements with other organizations. In each case there was a protocol and a draft agreement submitted to the meeting of member states of the organization for approval. Based on that approval the executive head of each organization was authorised to enter into the agreement on behalf of the organization.

2. However, the recent practice discloses[a] that relationship agreements have been entered into by inter-governmental organizations without the need for such a protocol. The implications of this should be viewed in the light of developments in international law relating to the treaty-making powers of international organizations which are inter-governmental. For the purpose of considering the issues concerning relationship agreements, Section (B) hereunder indicates the effect and substance of the protocols adopted in the earlier practice concerning relationship arrangements.

3. Given that the Tribunal is an independent inter-governmental organization with a mandate to carry out its functions effectively, the inherent power to enter a relationship arrangement with other inter-governmental organizations is obvious. The Preparatory Commission would review the need for relationship arrangements, inter alia with the United Nations and the appropriate specialized agencies and the International Sea-Bed Authority. On the basis of the issues presented in this Working Paper, a model agreement could be drafted following this examination of the issues which could constitute an annex to the report to be submitted by the Preparatory Commission to the meeting of State Parties. Once approved by the meeting of the State Parties on the basis of the report and the review, a general authorization could be made for the Registrar to enter into the necessary arrangements in his capacity as the chief executive of the Tribunal.

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[a] For example, (a) the relationship arrangement beteen the World Intellectual Property Organization and the United Nations, UN Treaty Series, Vol.956, page 405, which came into force on 17th December, 1974, the date which it had been approved by the General Assembly of the United Nations the General Assembly of the World Intellectual Property Organization

(b) Agreement on co-operation and relationships beteen the United Nations and the World Tourism Organizations, approval by the United Nations General Assembly on 19th December, 1977, and

(c) Agreement between the United Nations and the United Nations Industrial Developmental Organization, approved by the General Assembly of the United Nations on 17th December, 1985

4. In the case of the Tribunal, neither the Third United Nations Conference, nor the Convention on the Law of the Sea, specifically mandated such arrangements. However, such arrangements would appear to be essential in view of the functional interelationships established under the Convention between the Tribunal and the Authority, the United Nations and its principal organs and appropriate agencies.

5. The unique nature of the Tribunal as an independent international organization must be recognised when considering the nature, objectives and utility of relationship agreements it would establish, or need to establish, with other international organizations. The Tribunal does not have substantive competence governing a field or fields of intergovernmental activity. It does not have a constitutive body of member States within its own constitution that regulates its activities. Rather, its activities are regulated by its Statute and the Convention of the Law of the Sea. The constitutive body that regulates its budget and exercises legislative power with respect to its functions is the meeting of State Parties to the Convention that may periodically convene for the purpose. It is thus guaranteed a substantial degree of independence for the effective exercise of its judicial functions.

6. The essential relationship agreements that the Tribunal may enter into with other international organizations, particularly the United Nations and its agencies, would be with those that have competences in aspects of the Law of the Sea and related ocean affairs.

7. Article 319 of the Convention sets out certain responsibilities entrusted to the Secretary-General of the United Nations, which will be executed by the United Nations Secretariat. Under that provision, the Secretary-General is required, inter alia, to perform not only the usual Depositary functions, but also to receive charts and co-ordinates establishing limits of maritime zones. He will also convene meetings of States Parties (Article 319, paragraphs 2(e) and 3(b). These meetings are for the election of the members of the Tribunal and for the consideration of the report and recommendations of the Preparatory Commission on practical arrangements for establishing the Tribunal, in accordance with resolution 1, paragraph 10.

8. Under Article 319, paragraph 2(a) of the Convention, the Secretary-General reports to States Parties, the Authority and competent international organizations on issues of a general nature that have arisen with respect to the Convention. This would require reporting, inter alia, on the Tribunal's jurisprudence, since its jurisdiction encompasses all disputes relating to the interpretation or application of the Convention. It would require the Tribunal

to keep the Secretary General informed of pleadings, oral proceedings, judgements, orders and advisory opinions, and other preliminary proceedings before the Tribunal, since they may constitute developments relating to the Convention.

9. In addition to the interaction resulting from Article 319, other practical arrangements will be required for the effective functioning of the Convention's dispute settlement procedures.

10. Under Articles 2 and 33 of the Charter, the United Nations has a central role in the voluntary procedures for the peaceful settlement of disputes relating to the Convention, and this includes mediation and the good offices of the Secretary-General. The compulsory submission of disputes to the Tribunal or its Chambers would only follow if the voluntary procedures under the United Nations Charter have failed to result in a settlement.[1]

11. As Depositary of the Convention, the Secretary-General is also the Depositary for declarations made under Article 287, accepting the jurisdiction of the Tribunal, either generally, or specially for a specific dispute. Declarations of optional exceptions under Article 298 would be similarly deposited.

12. There are parallel functions to be carried out by the Tribunal and the International Court of Justice which would appear to require a relationship arrangement between these two pre-constituted forums for the settlement of disputes relating to the Convention (Article 287, paragraph 1). The Convention also permits preliminary procedures, such as those for the prompt release of vessels and crews, to be dealt with by either the Tribunal or the Court, although the related case may be dealt with in another forum (Article 292, paragraph 4).

13. There is also an interaction between the functions of the Tribunal and those of the United Nations Security Council, as contemplated in Article 298, paragraph 1(c) of the Convention. This would require practical arrangements between them.

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[1] Refer Articles 279-281 of the Convention.

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14. The complementary role of the Tribunal in relation to the activities of the Authority is manifest and the need for an appropriate relationship seems obvious. The negotiating history of the Conference reveals the original link contemplated between the Tribunal, or at least its Sea-Bed Disputes Chamber and the Authority. The Tribunal was proposed as an organ of the Authority. This confirms the association of functions.

15. In addition to these imperatives, the usual practical arrangements contained in other relationship agreements would also seem to favour a close relationship between the Tribunal and the Authority, the United Nations and some of its agencies.

16. As part of its mandate to make practical arrangements for the establishment of the Tribunal, the Preparatory Commission would be competent to consider the needs and make recommendations. It could report thereon to the Meeting of States Parties (in accordance with paragraph 10 of resolution 1), for review and approval of its recommendations by the Meeting. An appropriate arrangement between the Preparatory Commission and the United Nations General Assembly could be contemplated to review and establish the requirements of the agreements with the United Nations, its organs and agencies. The endorsement of such arrangements by the General Assembly would mandate the United Nations to enter into an arrangement. The meeting of the States Parties, upon the entry into force of the Convention, would have to adopt the recommendations of the Preparatory Commission in this connection. These bodies could then authorize the executive head of each to enter into the appropriate arrangements.

17. The Preparatory Commission may consider it appropriate to examine the criteria for establishing a relationship arrangement between the Tribunal and the Authority, which seems inevitable. It would also have to review the requirements for entering into such arrangement with any other international organization whose mandates and functions are related to those of the Tribunal.

B. PROTOCOL

18. A protocol was the usual means by which provision was made for the entry into force of agreements concerning relationships between intergovernmental organizations. The mandate for an intergovernmental organization to establish a relationship agreement with another is usually contained in the treaty establishing the organization or in its statute. In the case of arrangements between the UN and organizations whose activities are in the economic and social sectors, their relationships are governed by Articles 57 and 63 of the Charter of the United Nations.[2]

19. Where such an association is not previously contemplated or where the case does not fall under Articles 57 and 63 of the Charter, the protocol refers to the authorization contained in its constitutive instrument to establish such relations as may be appropriate.[3]

20. These arrangements would only be referred to generally in the Protocol, which would highlight the primary objects and purposes of the relationship. The agreement itself would be the instrument to specify the details of the arrangement.

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[2] These articles state as follows:

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

[3] For instance, in the case of the Agreement of the relationship between the United Nations and the International Atomic Energy Agency.

/...

C. CONTENT OF AGREEMENTS BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND OTHER INTERNATIONAL ORGANIZATIONS

I. Preamble

21. In the case of the specialized agencies and their relationship agreements with the United Nations, a Preamble refers to the legislative authority upon which the relationship agreement is based.

22. The arrangement is usually pursuant to the requirements of the Charter (Articles 57 and 63) which provides for co-operation and co-ordination of the activities in the economic and social sectors. In the case of the Tribunal, this could not form the basis for the arrangement since its activities do not fall within the same framework for co-operation.

23. Given that the legislative authority is not specifically provided in the case of the Tribunal, the desire to make provision for effective relationships, whereby the discharge of the respective responsibilities of the Tribunal and other intergovernmental organizations be facilitated, should be referred to in the Preamble. However, the other considerations referred to in the general context would also be appropriate for incorporation in the Preamble.[4]

II. Governing principles and mutual recognition of responsibilities, rights and obligations

24. An article setting out the principles governing the relationship agreement is normally incorporated. It records the recognition of the intergovernmental character and international responsibility of each organization by the other. Each also takes note of the autonomous international character of the other in the working relationship to be established by the agreement.

25. In the case of relationship agreement with the United Nations, there may need to be an undertaking by the Tribunal to conduct its activities in accordance with the provisions and principles of the United Nations Charter. Primarily, these are to promote peace and international co-operation, while at the same time furthering the objectives of the Tribunal, which are similar.

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[4] See paragraphs 4 to 16 above.

III. Consultations, co-operation, co-ordination and recommendations

26. The arrangement would reflect the desire to consult together and exchange views on matters of mutual interest so as to facilitate the effective attainment of the objectives of both organizations as contained in their respective constitutions. Where the co-operation is between agencies of the United Nations inter-se, then the co-operation is carried out under the general framework of the United Nations Charter. When the co-operation and co-ordination is between a specialized agency and the United Nations and its organs, the agency recognises the responsibility of the General Assembly and the Economic and Social Council for co-ordination in accordance with the Charter. These co-operative measures relate to the co-ordination or policies and activities of the agency and of the United Nations and its organs. For the purpose of such co-ordination the established mechanism is the Administrative Committee for Co-ordination.

27. Close co-ordination is maintained between agencies in the economic, social, humanitarian and related fields in the context of the activities of the Economic and Social Council of the United Nations. Even where the activities of the agency brought into a relationship agreement with the United Nations falls outside the social and economic fields, the objectives of co-ordination remain the same, which is to avoid overlapping and duplication of activities. The co-ordinating body for these arrangements is not the Economic and Social Council but the Administrative Committee for Co-ordination and any other body of the United Nations which has been or may be established by it to facilitate such co-ordination and co-operation.

28. The arrangement also contains an undertaking by the agency to co-operate on measures recommended by the United Nations for that purpose. Consultation is contemplated with United Nations bodies dealing with matters within the competence of the agency concerned when it requires expert advice.

29. In the case of the Tribunal, the prospective areas of interaction with the United Nations are referred to in paragraphs 4 - 16 above. While little overlapping or duplication of the activities of the Tribunal and those of the United Nations would be contemplated, there may be a prospect of overlapping with the International Court of Justice since it shares competence for the settlement of international disputes relating to the Law of the Sea. As between the Tribunal and the International Sea-Bed Authority, the need for co-ordination of activities, and co-operation for that purpose, would be extremely limited due to the distinctly different functions and objectives of each.

30. The appropriateness of co-ordination of activities with other specialized agencies and bodies would have to be reviewed in the context of the mandate of each.

/...

IV. Reciprocal representation

31. The right of reciprocal representation, whereby the representative of one organization would have the right to attend meetings of the legislative body of the other is recognized in most arrangements. The right to participate in these deliberations is however, without the right to vote. Similarly, representatives of one would also be permitted to attend and participate without a vote in meetings of subsidiary organs of the other. The objective of this representation is to provide an opportunity for each organization to express its point of view on matters of concern to it which are being dealt with by the other. An appropriate provision covers the exchanges of notices of meetings and prior notification of agenda items so as to secure adequate representation.

32. The participation of the Tribunal's representatives at meetings of the United Nations may be considered important due to the range of functions of the United Nations in the areas of international peace and security, the law of the sea and marine related matters. This would also be the case with respect to the work of the Sixth (legal) Committee of the United Nations, matters related to the work of the International Court of Justice, and also in the deliberations of other organs when they deal with subjects relating to the Law of the Sea. However, the participation of the United Nations in the activities of the Tribunal would not appear to warrant more than a formal arrangement. There would be little practical significance for the United Nations to participate in the deliberations of a judicial forum which has no constitutive organ comprised of States. This does not reflect on the significance of the jurisprudence and the role of the Tribunal, to the activities of the United Nations. The situation as regards reciprocal representation and attendance may however, be quite the reverse in the case of the International Court of Justice on account of its competence for the settlement of disputes relating to the Convention.

33. The need for reciprocal representation between the Tribunal and the International Sea-Bed Authority would also appear to be one-sided. While the activities of the Assembly, the Council and even the Enterprise have a significance to the pacific settlement of sea-bed disputes by the Tribunal, its judicial character and the absence of a constitutive forum would minimize the need for representation of the Authority and its organs in the usual activity of the Tribunal. The nature of the representation is different where a dispute under consideration by the Tribunal relates to the interpretation or application of Part XI of the Convention, and particularly where the Authority or one of its organs is party to a dispute, or when advisory opinions are requested by the Authority. In these cases, the Authority would be a party to, and would be represented in, the proceedings by an agent, counsel or advocate.

34. In all other situations however, given that the Tribunal is an independent judicial body, there would be no real participation in its deliberations by the Authority or its organs unless called upon to provide information, in accordance with the Tribunal's rules, when relevant to the consideration of a case.5/

5/ See paragraphs 34-36, and footnote 6, post.

V. Written statements

35. As an adjunct to the reciprocal representation of international organizations in each others' deliberations, the relationship agreements usually permit each to submit written statements on matters before the constitutive forum or organs of the other. These are distributed through the Secretariat to the members of the organization and to its organs, as appropriate.

36. In the case of the Tribunal it may find it appropriate to submit written statements to international organizations dealing with related Law of the Sea issues on matters which have a bearing on the agenda of that organization's activities. However, the reverse procedure would not be appropriate for the Tribunal, in the absence of a representational body of States and for the reason that it may constitute an interference with the independent functioning of a judicial body to receive or respond to such statements, except in the circumstances referred to below.

37. In the context of the relationship between the Tribunal and the United Nations and its organs and agencies, the rules of the Tribunal permit it to request international organizations to submit written statements on matters relating to a dispute under consideration by it or in relation to an advisory opinion requested of it by the International Sea-Bed Authority.6/ Written statements of this nature are separate, and should be distinguished from the written statements usually contemplated for submission by one organization to another in the context of items under consideration by a multilateral body.

38. There may, however, be circumstances under which the Security Council may wish to submit written statements to the Tribunal in the context of the inter-related activities contemplated by Article 298 of the Convention. In these cases it would involve a dispute which is on the agenda of the Security Council being exempted from the jurisdiction of the Tribunal in accordance with a declaration made under article 298.7/

6/ Article 135 of the draft Rules of the Tribunal contained in document LOS/PCN/SCN.4/WP.2/Rev.1/Part II.

7/ See also paragraphs 71-73, post.

39. The Convention also contemplates a specific circumstance in which the views of the Assembly of the International Sea-Bed Authority are communicated to the Tribunal. This is in the form of recommendations of a general nature, relating to the representation of the principal legal systems of the world and equitable geographic distribution in the selection of the members of the Sea-Bed Disputes Chamber from among the members of the Tribunal. This selection is to be made by the full membership of the Tribunal in accordance with Article 35 of the Tribunal's statute (Annex VI of the Convention). It may be noted that in this case the recommendation relates to the administration of Tribunal and not to its judicial role.

VI. Exchange of information and documents

40. The exchange of information is central to relationship agreements and the usual provision requires the organizations to arrange for the current exchange information and publications of mutual interest, and also the furnishing of special reports and studies that may be requested.

VII. Confidential information

41. In the case of relationship arrangements between the agencies *inter-se* and in their relationships with the United Nations, confidential information communicated between any agency and its members may need to be safeguarded. Each organization would reserve the right to restrict the communication of confidential information to the other. Such a limitation is intended to safeguard, and to avoid the construction that the exchange of information under the relationship requires, the exchange of all information irrespective of whether such an exchange would constitute a violation of confidence of the members or of anyone else from whom such information has been received.

42. Clearly, in the relationship between the Tribunal and any other organization, such as the United Nations or its agencies, confidential information may not appropriately be communicated to other agencies if it is of a proprietary nature,8/ or if for any other reason the communication of information has been confidential as between the Tribunal and the source of the information.

43. The situation would also be true when the International Sea-Bed Authority is dealing with confidential information or proprietary materials.

8/ Such as contemplated in Articles 163, 168, and 181 of Part XI of the Convention, and Annex III thereto.

VIII. Recommendations of other international organizations

44. In the case of relationship arrangements between organizations promoting economic and social progress, the relationship arrangements contemplate recommendations being communicated by one organization to the other. Bearing in mind the nature of the International Tribunal, the communication of such recommendations would not be appropriate in the usual course. A judicial body would not be entitled to take into consideration recommendations from any external source or organization in the pursuance of its usual activities. The Tribunal does not have the competence to provide recommendations to any other international organization.

45. The only recommendations from an international organization that may be taken into account are those referred to in Article 35 of the Tribunal Statute (Annex VI of the Convention) regarding the Assembly of The Authority communicating recommendations on the equitable geographic distribution and the representation of the legal systems of the world in the selection of the Sea-Bed Disputes Chamber from among the Members of the Tribunal. This relates to an Executive function of the Tribunal and not to a deliberative function.[9]

IX. Consideration of resolutions of other international organizations

46. The resolutions of one intergovernmental organization may have an impact on the work of the other where the appropriate relationship exists between them. For this reason it is to be noted that the precedent provides for resolutions, particularly of the United Nations, which relate to the other international organizations to be referred to them, together with the appropriate records. When so requested the relationship arrangement requires the other international organization to submit the resolution for consideration by its deliberative forum and to report on any action taken in accordance with its Statute, by it, or by its Members as a consequence of the consideration of the resolution referred to it. For the same reasons as to why the submission of recommendations from an international organization to the Tribunal may be inappropriate (see para. 44 above), submission of resolutions of other intergovernmental bodies to the Tribunal, may be inappropriate. This does not preclude the possibility that the Tribunal may take account of resolutions of the General Assembly to the extent that they may have an impact on international law, in its judicial deliberations.

47. Furthermore the Tribunal is not competent to adopt resolutions and could not consider or act on resolutions of the United Nations, submitted to it for the purpose of taking action thereon, except when they are exclusively administrative in nature. Its Statute does not contemplate any action on such a basis.

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[9] See also paragraph 36, supra

X. Reports to the United Nations

48. As in the case of the agencies, it would be appropriate for the Tribunal to inform the United Nations of its activities:

(a) by submitting reports to regular sessions of the General Assembly;

(b) by submitting reports, when appropriate to the Security Council, and to notify the Council whenever in connection with the activities of the Tribunal requests within the competence of the Concil arise. This would include virtually every dispute which constitutes a threat to peace and security.
(c) To submit reports to the other organs of the United Nations on matters within their respective competences. The submission of reports to the legal committee or other organs dealing with matters with respect to which the Tribunal exercises its contentious jurisdiction may be appropriate.

XI. Personnel arrangements

49. The agreement between an international organization and the United Nations requires them to develop, in the interests of uniform standards of international employment and to the extent feasible, common personnel standards, methods and arrangements, designed to avoid unjustified differences in terms and conditions of employment and to avoid competition in recruitment of personnel.

50. As between the agencies and the United Nations, consultation is required from time to time concerning matters of mutual interest relating to terms and conditions of employment of officers and staff, and co-operation in the interchange of personnel when desirable, on a temporary or a permanent basis, making due provision for the retention of seniority and pension rights.

51. Co-operation, is also advised on such terms and conditions as may be agreed, in the operation of a common pension fund, and in the establishment and operation of suitable machinery for the settlement of disputes arising in connection with employment of personnel and related matters. Supplementary agreements relating to the matters under this topic may be entered into.

XII. Statistical service

52. Common to most relationship agreements is the promotion of the exchange of all non-confidential statistical information. Each agreement contains an undertaking on the elimination of unnecessary duplication in the collection, analysis, publication and dissemination of statistical information, in the interests of efficiency and for the purpose of reducing the burden on national governments and other organizations.

53. The United Nations is recognized as the central agency for the collection, analysis, publication, standardization and improvement of statistics serving the general purpose of international organizations, without prejudice to the right of other organizatons to concern themselves with any statistics so far as may be essential for their own purpose.

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54. Due recognition is given by the United Nations to the rights of others to collect, analyse, publish, standardize and improve statistics within its special spheres.

55. However, this may not be relevant to the Tribunal to any substantial degree.

XIII. Agenda Items

56. It is a consistent practice for international organizations that have a relationship agreement to provide for either the proposed items for consideration by the other at its plenary session or sessions of an organ. In such cases, the practice requires the notification be to addressed to the executive head of the organization so that it can be brought to the attention of the organ of the organization concerned by placing it on the provisional agenda.

XIV. Technical Experts

57. Although there is no clear precedent for sharing information or making co-operative arrangements in relation to the maintaining of lists of technical experts in the different fields of activity of each organization, there is precedent for co-operation in relation to statistical information and technical assistance (refer paragraph 54 supra and 59 post)

58. In the context of the functions of the Tribunal it needs information regarding technical experts in different fields such as fisheries, navigation, marine scientific research and protection and preservation of the marine environment. Under the Convention (Annex VIII) it is contemplated that the competent specialized agencies of the United Nations would maintain lists of such experts. Consequently, it would be appropriate for the Tribunal to have in place co-operative arrangements with these other international organizations for this purpose in addition to any other reasons for such arrangements. This is because the Tribunal would require the services of such technical experts in the consideration of cases involving these matters (Article 289 of the Convention).

XV. Administratives and technical services and technical assistance

59. Agreement between organizations require consultation together concerning the establishment and use of common administrative and technical services and facilities in addition to those specified in the agreement in so far as the establishment and use of such services may from time to time be found practicable and appropriate.

60. Such arrangements should be made between the United Nations and the Tribunal in regard to the registraton and deposit of official documents.

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XVI. Budgetary and Financial Arrangements

61. The need to co-operate on budgetary and financial arrangements is included in relationship agreements in order that each would carry out its administration in the most efficient and economical manner. Agreement is reached on conforming as far as practical and appropriate to secure standard practices and forms (in particular those recommended by the UN). There is precedent for studying the possibility of providing common services and for the securing of uniformity in matters of a financial or fiscal nature.

XVII. Financing of special services

62. Where the relationship agreement between two international organisations would result in one of them incurring substantial extra expense in the preparation of reports, studies or assistance, as a result of a request from the other, then the arrangement calls for consultations to take place between the organisations so as to arrive at an equitable sharing of expenses. Such reports, studies or assistance would be the outcome of requests made to a specialized organisation for co-operation in providing specialized information or assistance. Such requests normally emanate from organisations which have broad political, economic or social mandates, or from their principal organs.

63. In the case of the International Court of Justice, its statutes and rules provide for requests to be made to international organisations to provide information on matters under consideration by it. This is a somewhat different function.

64. The International Tribunal for the Law of the Sea has no advisory jurisdiction except on question referred to it by the International Sea-Bed Authority, the reference of questions for an advisory opinion of the Sea-Bed Disputes Champer could require the administrative modalities and financial implications to be determined in a relationship agreement between them. While this may not strictly fall under the special services contemplated here it is appropriate to consider it in this context.

XVIII. Liaison

65. Agreement to establish liaison between the two organizations concerned in a relationship arrangement is usually reached.

66. Relationship agreements usually provide for each international organisation to keep the other informed of the nature and scope of any formal agreement contemplated with any other international organisation and thereafter to notify the other upon the conclusion of any such formal agreement.

XIX. Implementation of the agreement

67. Supplementary arrangements are entered into by the executive heads of the organizations for the implementation of the relationship agreement, as may be found desirable.

XX. Revision/amendment

68. These agreements contain the usual provision that they shall be subject to revision by agreement between the parties. The entry into force of any amendment so agreed upon would require the approval of the constitutive body of each. In the case of the United Nations it would require the approval by the General Assembly of the United Nations and, in the case of the Tribunal, the approval of the Meeting of States Parties. With due notice given on either part, the agreement would be subject to revision by agreement of the parties.

XXI. Entry into force

69 Entry into force of these agreements usually requires the approval of the constitutive bodies.

D. CONTENT OF AGREEMENTS SPECIFIC TO RELATIONSHIPS WITH THE UNITED NATIONS AND THE AUTHORITY

I. Co-operation between the UN Secretariat and the Tribunal's Registry

70. A close working relationship may appropriately be established between the Secretariat of the United Nations and the staff of the Registry of the Tribunal in accordance with arrangements to be made between the Secretary-General and the Registrar of the Tribunal. If their mandates are appropriately related it may be desirable to ensure close working relationship between the Secretariats of the specialized agencies and the staff of the Registry of the Tribunal

II. Security Council

71. Co-operation with the Security Council of the United Nations is required of agencies that have relationship agreements with the United Nations. In such cases the co-operation consists of furnishing at the request of the Security Council, information and assistance that may be required in exercising the responsibility of the Security Council for the maintenance or restoration of international peace and security. Such an arrangement with the Tribunal may be appropriate.

72. However, it should record the obligation of the Tribunal to communicate to the Security Council information as to its activities which would bear upon matters which are before, or are likely to come before, the Security Council.

73. Bearing in mind the nature of the Tribunal as an international organization, it would not be appropriate for a relationship agreement to require it, or to require such of its members as are members of the United Nations to implement decisions of the Security Council though this may be appropriate for other organizations.

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III. International Court of Justice

74. The organizations having relationship agreements with the United Nations, have provided in their agreements for the UN to take the necessary action to enable the legislative organ of the international organization concerned to seek advisory opinions of the Court on any legal question arising within the scope of the activities of the organization. These questions do not include the mutual relationships that exist between the organization and the United Nations or its specialized agencies. This power falls under Article 65 of the ICJ Statute. This may not be considered appropriate as between the Tribunal and the Internatinal Court of Justice which are parallel organizations for the settlement of international disputes.

75. The organization concerned usually undertakes, subject to safe-guarding, confidential information and arrangements it may make for that purpose, to furnish information which may be requested by the International Court of Justice in accordance with its Statute - (Article 34).

76. The furnishing of information between the Tribunal and the Court may be an important aspect of the relationship agreement since both have competence for the settlement of disputes relating to the law of the sea (Article 287 of the Convention). In addition, the Convention permits for certain preliminary procedures and provisional measures to be dealt with by the Tribunal although the related case may be dealt with by the Court. (Article 290, paragraph 5 of the Convention).

77. There would also be consideration given to the desirability of maintaining consistency of jurisprudence between the Tribunal and the Court for which purpose exchange of information would be a significant aspect of the relationship to be established.

IV. International Sea-Bed Authority

78. The Convention calls for consultation and co-operation of the Authority with international and non-governmental organizations.10/ This would importantly contemplate securing such relations with the Tribunal as well. In advisory proceedings submitted to the Tribunal and in disputes where the International Sea-Bed Authority is a party,11/ it would have to contribute to the costs of the Tribunal. There is provision for an assessed contribution by the International Sea-Bed Authority to the budget of the Tribunal.12/

10/ Refer Article 268 and 269.

11/ Refer Articles 187, 188, 189 and 191 of the Convention.

12/ Refer Article 19, Annex VI of the Convention.

V. Other international organizations

79. Relationship agreements usually provide for each international organization to keep the other informed of the nature and scope of any formal agreement contemplated with any other international organization and thereafter to notify the other upon the conclusion of any such formal agreement. Organizations that have established relationships with the United Nations are required to inform the United Nations of any formal agreements they has entered with any specialized agency, inter-governmental organization or non-governmental organization.

VI. United Nations Laissez-Passer

80 The global acceptance of the United Nations laissez-passer has resulted in most international organisations entering into relationship agreements which permit the staff, officials and other employees of the other organisation securing the right to obtain and to use the United Nations laissez-passer.

81. Following the practice of the arrangements with the agencies it may be appropriate to consider whether the Members, the Registrar, the officials and other functionaries of the Tribunal, should be issued and permitted to use the laissez-passer of the United Nations in accordance with special arrangements to be negotiated between the Secretary-General of the United Nations and the Registrar of the Tribunal.

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LOS/PCN/SCN.4/WP.8
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ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

ADMINISTRATIVE ARRANGEMENTS, STRUCTURE AND FINANCIAL IMPLICATIONS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Prepared by the Secretariat)

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Introductory note

Special Commission 4, on the recommendation of its Bureau, decided at the summer meeting of the seventh session of the Preparatory Commission that the Special Commission should commence the consideration of the institutional structure and initial staffing needs of the Tribunal, basing itself on the organisational structure of the Tribunal as set out in the Law of the Sea Convention. The Commission also decided that the Secretariat should take into account the structure of existing international tribunals and courts and their experience. The Secretariat was thus requested to prepare a relevant working paper suitable for discussion, outlining an institutional framework and staffing needs and providing the initial and subsequent financial implications of establishing and maintaining the proposed structure. The Special Commission suggested that the financial and structural implications could be based on the use of two working languages, with the pleadings and judgements to be issued in all six working languages of the United Nations, after completion of each application, case or advisory opinion.

The present paper attempts to respond to that request. It provides a structural outline which takes into account the most relevant existing institution with comparable functions, namely, the International Court of Justice at The Hague. The experience of the Court has also been considered. Other international tribunals, though not of a global character, have been considered in the context of their composition and experience, but to a lesser extent.

For the purposes of determining the size and structure of the initial institution, it has been assumed that the level of activity in contentious cases would be similar to the current level of activity of the International Court. In addition, it is assumed that there would be several applications for provisional measures and the prompt release of vessels and crews submitted each year. The size of the initial institution proposed is based on the need for the Tribunal to be ready to function with all of its chambers, including the Sea-Bed Disputes Chamber, from the time of its formation. Institutional and financial implications would be greater as the case-load grows.

The presentation in the paper should not be considered as a rigid demarcation of overall areas of activity shown in the organizational chart (annex I to the paper). The allocation of functions into departments or services as shown in the organizational chart, and as described in the text, is merely indicative, and alternative approaches for allocating areas of activities would be feasible with the consequential changes in the chain of command. The titles given to the different organizational units such as "department" and "service" are also not indicative of their importance or of the level at which those units are headed.

The service entitled "Budget and Accounts Section" could alternatively be reflected as the "Financial Services", bearing in mind the overall activity involved. The head of that section would be responsible for the functions of a Treasurer in ensuring the receipt of contributions from States for the costs of the Tribunal and their investment. He would also be responsible for the due investment of the Members' pension fund contributions and for making payments for these purposes. Audit services would also have to be secured, either from independent audit firms or through a relationship arrangement with the United Nations.

Computerized data processing facilities may be required for maintaining administrative, personnel and financial records and for making payments of salaries, etc. In addition, data processing services would be required for the Library and in any technical fields that may be relevant. An indexing service has been referred to in the Department of Office Secretarial Services. This is consistent with the practice of the Court, but in the current technological context, the needs could be served by data processing services.

In relation to the languages of the Tribunal, it is assumed that the Tribunal would have two official working languages and that the documentation and judgements would be concurrently produced in those languages. It is also assumed that the judgements and pleadings would later be issued in unofficial versions in the other working languages of the United Nations.

The financial implications presented are for annual recurrent expenditures. It is assumed that the offer of the Government of the Federal Republic of Germany to provide the building for the Tribunal would include the provision of basic fittings and interpretation facilities and equipment. Consequently, provision for office equipment has been based on a rental basis without a capital outlay. No provision has been made in the present paper for capital expenditures, such as transport, communications, reproduction equipment, etc.

It has not been possible to present alternatives for structure or the financial implications of more than two official working languages because there would first need to be a clear determination as to how the Tribunal would operate. There would have to be, for instance, an indication from the Special Commission as to whether the hearings would be simultaneously interpreted in all six working languages or some lesser number; whether informal meetings of the judges would require simultaneous interpretation; whether all documentation, notes of meetings and judgements should simultaneously be available in six working languages; and whether this would apply only to cases where parties so request it, or in all cases. The Special Commission will have to make determinations in relation to these matters before the computations can be presented.

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CONTENTS

	Paragraphs	Page
INTRODUCTION	1 - 5	265
I. SEAT	6 - 8	265
II. ADMINISTRATION	9 - 41	266
A. The Presidency and Committees of the Tribunal	9 - 16	266
1. Rules Committee	10	266
2. Budgetary and Administrative Committee	11 - 12	266
3. Committee on Relations and Public Information	13 - 14	266
4. Library and Archives Committee	15	267
5. Staff Appeals Committee	16	267
B. The Registry	17 - 41	267
1. Officials of the Registry	26 - 28	268
2. Secretaries	29	268
3. Executive Office	30	269
4. Budget and Accounts Section	31 - 32	269
5. Documents Department	33 - 34	270
6. Office Secretarial Services	35 - 36	270
7. Printing Department	37 - 38	270
8. Archives and Distribution Service	39	271
9. Linguistic Services	40	271
10. Judiciary Support Services	41	271
III. FINANCIAL IMPLICATIONS	42 - 61	272
A. Members of the Tribunal	45 - 54	272
1. Annual and special allowances	43 - 50	272

/...

CONTENTS (continued)

	Paragraphs	Page
2. *Ad Hoc* Members of the Tribunal and experts appointed under article 289 of the Convention	51	273
3. Retirement benefits, installation, travel, etc. ...	52 - 54	273
B. Registry	55 - 61	274

Annexes

I. Organizational chart of the Registry of the Tribunal 275

II. Staffing Structure of the Registry of the Tribunal 276

III. Summary of Recurrent Financial Implications 277

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INTRODUCTION

1. The International Tribunal for the Law of the Sea is the central judicial organ for the resolution of disputes under the 1982 United Nations Convention on the Law of the Sea. It will function in accordance with its Statute (annex VI of the Convention), which forms an integral part of the Convention.

2. The Tribunal is composed of 21 judges elected by a meeting of States Parties to the Convention for a period of nine years.

3. The Tribunal has jurisdiction over all disputes relating to the interpretation or application of the Convention with certain exceptions and limitations as provided in the Convention. As a composite part of the Tribunal, there is constituted within it a Sea-Bed Disputes Chamber which has exclusive jurisdiction over the settlement of disputes relating to the interpretation or application of that part of the Convention (Part XI). The exceptions to this jurisdiction are also in accordance with the Convention. The Sea-Bed Disputes Chamber also has advisory jurisdiction in relation to matters submitted to it by the International Sea-Bed Authority.

4. The expenses of the Tribunal, in accordance with article 19 of its Statute, are to be borne by States Parties to the Convention and by the International Sea-Bed Authority on such terms and in such a manner as decided at meetings of States Parties. When an entity other than a State Party or the International Sea-Bed Authority is a party to a case submitted to the Tribunal, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

5. In matters concerning its administration, the Tribunal will apply articles 1 and 12 of its Statute and articles 11-15 and 24-31 of the Rules of the Tribunal. 1/

I. SEAT

6. The Seat of the Tribunal is to be established in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany. This does not however preclude the Tribunal from sitting and exercising its functions elsewhere whenever it considers it desirable to do so (Statute, art. 1, paras. 2 and 3; Rules, preambular para. 3).

7. The Tribunal will occupy the premises built at the expense of the Government of the Federal Republic of Germany in the City of Hamburg, in the district of Altona in Nienstedten.

1/ Throughout the present paper, reference to the "Statute" means the Statute of the International Tribunal for the Law of the Sea, annex VI of the 1982 United Nations Convention on the Law of the Sea; and "Rules" means the draft Rules of the Tribunal (document LOS/PCN/SCN.4/WP.2/Rev.1/Parts I and II).

8. An agreement shall be concluded between the Tribunal and the Government of the Federal Republic of Germany determining the conditions under which the Tribunal will use the premises. This agreement shall be approved by the meeting of States Parties to the Convention, (convened in accordance with Statute, art. 4, para. 4).

II. ADMINISTRATION

A. The Presidency and Committees of the Tribunal

9. The President shall preside at all meetings of the Tribunal. He shall direct the work and supervise the administration of the Tribunal (Rules, art. 13). The President shall reside at the seat of the Tribunal (Statute, art. 12, para. 3). Decisions which have to be taken by the Tribunal on administrative matters are prepared by its Budgetary and Administrative Committee. The Tribunal shall, inter alia, establish the following committees:

1. Rules Committee

10. The Rules Committee shall be established as a standing committee and shall be composed of nine Members of the Tribunal. The Rules Committee shall be responsible for the uniform and proper application of the Rules of Procedure of the Tribunal, the Internal Rules of the Tribunal and the Staff Rules and Regulations. The Secretary of this Committee will be a staff member of the Registry designated by the Registrar.

2. Budgetary and Administrative Committee

11. This Committee will prepare the budget and administrative policies for consideration by and decision of the Tribunal on such matters.

12. The Budgetary and Administrative Committee shall be composed of the President, who shall be the Chairman, the Vice-President and three Members who shall be elected annually. The Secretary of the Committee shall be a staff member of the Registry designated by the Registrar.

3. Committee on Relations and Public Information

13. A Committee on Relations and Public Information shall be established which shall be responsible for the maintenance of relations with the United Nations, its organs and organizations, its specialized agencies and bodies, as well as the International Sea-Bed Authority and its organs and other international bodies and conferences concerned with the codification and progressive development of international law, particularly the law of the sea. This Committee shall also be responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Tribunal.

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14. The Committee shall be composed of three Members of the Tribunal, and the Registrar shall designate a staff member from the staff of the Registry as its Secretary.

4. Library and Archives Committee

15. The Tribunal shall also establish a Library and Archives Committee composed of four Members of the Tribunal who shall review the programme of acquisition for the Library of the Tribunal and supervise the continuous modernization of its services. It shall also have responsibility for the supervision of the archives of the Tribunal. The Librarian shall be the Secretary of this Committee.

5. Staff Appeals Committee

16. This Committee shall be responsible for staff appeals concerning the interpretation or application of the Staff Rules and Regulations. It shall be composed of three Members of the Tribunal, and its Secretary shall be designated by the Registrar from the staff of the Registry.

B. The Registry

17. The Registry is to be appointed by the Tribunal in accordance with article 12 of its Statute. The Registry will provide legal, procedural, administrative, diplomatic and any technical support for the Tribunal. It will also have responsibility for the financial and accounting administration, and for documentation archiving and library services.

18. The Registry shall be the administrative organ of the Tribunal. The role of the Registry is defined in the Rules of the Tribunal, articles 24-31. The organization of the Registry and the appointment of staff shall be approved by the Tribunal on the recommendation of the Registrar (Rules, art. 27, para. 1).

19. The Registrar shall be elected by the Members from among candidates proposed by Members of the Tribunal. He shall be elected for a term of seven years (Statute, art. 12, para. 2; Rules, art. 24, para. 1). The Registrar shall reside at the seat of the Tribunal (Statute, art. 12, para. 3).

20. The general functions of the Registrar are defined by the Rules (art. 28). In addition to these functions, the Registrar shall be responsible for the preparation of cases for consideration by the Tribunal and shall assist the Tribunal in drafting the texts of judgements, decisions, orders and advisory opinions.

21. The Registrar shall also be responsible for all departments of the Registry. The staff of the Registry shall be under his control and he alone shall be authorized to direct the work of the Registry, of which he is the Head.

22. The Registrar shall prepare a document of "Instructions for the Registry" for approval by the Tribunal (Rules, art. 30, para. 3).

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23. These instructions shall describe: (a) the duties of the Registrar and of the Deputy Registrar in general; (b) the general and financial administration of the Tribunal; (c) the duties of the other members of staff, including the organization of the various departments of the Registry.

24. The Deputy Registrar shall share the duties devolving upon the Registrar both in connection with the exercise of the judicial and advisory powers of the Tribunal and in connection with the direction of the Registry. The Registrar shall make sure that in dividing the work between himself and the Deputy Registrar both of them are constantly in touch with the work of the Tribunal and the Registry.

25. The Registrar may designate an Assistant Registrar to execute the duties devolving upon the Registrar both in connection with the exercise of the judicial and advisory powers of the Sea-Bed Disputes Chamber and with the administration of the function of the Registry. In addition, the Assistant Registrar shall perform the duties of the Deputy Registrar if the latter is unable to carry out his functions as Deputy Registrar or is acting as Registrar.

1. Officials of the Registry

26. The officials of the Registry shall be appointed by the Tribunal on proposals submitted by the Registrar (Statute, art. 12, para. 2; Rules, art. 30, para. 1). General Service category and temporary staff shall be appointed by the Registrar in accordance with the Staff Regulations and Instructions for the Registry.

27. All officials of the Registry, whether permanent or temporary, must be proficient in at least one of the official languages of the Tribunal.

28. The staff of the Registry shall be subject to the Staff Regulations, embodying the fundamental conditions of service and principles of personnel policy of the Registry and shall be drawn up by the Registrar and approved by the Tribunal. The Registrar shall provide and enforce Staff Rules consistent with these principles.

> [For the purposes of the initial establishment of the Tribunal, consistent with the practice of similar institutions and the membership and functions of the Tribunal, it is assumed that the staffing structure will be as provided in the organizational chart and the table of post requirements presented in annex I to the present paper and the organisation's structure in annex II.]

2. Secretaries

29. Secretaries of the Tribunal shall be appointed from amongst the staff of the Registry. The Registrar shall delegate to each Secretary such work as he thinks fit, inter alia, legal review and advice on substantive and procedural issues, preparation of cases, legal research, negotiation, drafting and translation of judgements, decisions, orders and advisory opinions, interpretation at the sittings of the Tribunal, minutes-writing, preparation of publications, interviews, maintaining relations with other organizations and external relations.

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[For the purposes of the initial establishment and the cost estimates, it is assumed that there would be a Principal Legal Secretary (D-1 level) and one Senior Secretary (P-5 level). The former would also be the Secretary of the Rules Committee and the latter would be the Secretary of the Committee on Relations and Public Information. In addition, four First Secretaries are proposed (P-4 level); two Secretaries (P-3 level) and one Associate Secretary (P-2 level). To support the functions of the Secretaries, seven General Service staff (secretarial) have been included.]

3. Executive Office

30. The Executive Officer shall be responsible to the Registrar for all administrative, personnel and financial activities of the Tribunal. The Executive Officer would function as Secretary of the Budgetary and Administrative Committee. The administrative procedures to be followed in the fulfilment of these functions, including the financial functions of the Accountant-Establishment Officer, shall be laid down by the Registrar and shall be included in the Instructions for the Registry.

[For the purposes of the initial establishment and the cost estimates, the assumption is that there would be an Executive Officer (D-1 level) in overall charge of Administration. Falling under the Executive Office would be a Budget and Accounts Section, as detailed below. There would also be an Administration and Personnel Section with an Administrative Officer (P-3 level) and five Administrative Assistants (General Service level). The General Services Section would also fall under the same supervision. This would comprise a Co-ordinator (P-3 level); two telephone operators/receptionists (General Service level) and five messengers (General Service level). There would also be two Security Guards (Security Service level).]

4. Budget and Accounts Section

31. An Accountant/Establishment Officer will head this Section and shall be responsible to the Executive Officer for accounts, payments, purchases of equipment and supplies and the maintenance of all accounting ledgers and books.

[For the purposes of the initial establishment and cost estimates, the structure of the Budget and Accounts Section is assumed to comprise the Accountant/Establishment Officer (P-5 level), a Budget Officer (P-2 level), and three Accounts/Budget Clerks (General Service level).]

32. The Registrar shall ensure that the strictest economy is observed in incurring liabilities and that no payment is made except where an obligation actually exists.

5. Documents Department

33. The Head of the Documents Department is also the Tribunal's Librarian and shall be responsible to the Registrar. The Head of the Documents Department (Librarian) would function as Secretary of the Library and Archives Committee. He shall also supply the Members of the Tribunal, the Registrar and members of staff with any information which they may require in the course of their work and shall obtain for them any reference documents they may need, from the volumes of the Tribunal's Library and any other library in Hamburg as well as the Libraries of other international courts or tribunals, and if necessary from other libraries.

34. The Head of the Documents Department shall inform the Registrar regularly of newly published works purchased by the Tribunal and shall draw his attention to books and review articles concerning the Tribunal and international law, in particular the law of the sea, and other relevant fields of marine affairs. Detailed instructions as to the duties of the Head of the Documents Department shall be laid down in the instructions for the Registry and further defined by the Registrar.

> [For the initial establishment and the cost estimates it is assumed that the Documents Department would comprise the Head of the Department and Librarian (P-4 level) and one Associate Librarian/Documents Officer (P-2 level) together with one General Service Library Assistant.]

6. Office Secretarial Services

35. The Registrar shall appoint a Head of the Department of Office Secretarial Services to provide shorthand, typing, word processing and other automated office services. The Head of the Department shall be in charge of the clerical work of preparing and reproducing documents, including correspondence and shorthand notes of hearings of the Tribunal and the Sea-Bed Disputes Chamber, with the assistance of verbatim reports, shorthand typists and automated office services staff.

36. This Office would also be in charge of the indexing. It shall maintain manual or computerized indices of the minutes of the meetings of the Tribunal and of the Sea-Bed Disputes Chamber; the Tribunal's publications; and certain special indices; and as required provide research in the Minutes of the Meetings of the Tribunal and of the Sea-Bed Disputes Chamber.

> [For the purposes of the initial establishment and for the cost estimates attached, it is assumed that the Office Secretarial Services will be headed by a P-4 level staff member and will have a supervisor (P-4 level and five secretarial support staff (General Service).]

7. Printing Department

37. The Printing Department shall be headed by a staff member appointed by the Registrar who shall be responsible for the preparation and examination of the Tribunal's publications and all other functions relating to printing. These duties

would also relate to pleadings which the Registrar causes to be printed at the cost of the parties under article 62, paragraph 4, of the Rules of the Tribunal.

38. In general, the Head of the Printing Department shall act as intermediary between the Registry and the Printers. He shall also take all measures to maintain and increase the circulation of the Tribunal's publications.

[For the purposes of the initial establishment and the cost estimates, it is assumed that the Printing Department will comprise a P-2 level Head of Department with one General Service support staff member.]

8. Archives and Distribution Service

39. An archivist shall be appointed who will be responsible to the Registrar. The archivist shall be responsible for the keeping of the archives and for the dispatch and distribution of documents in accordance with the procedure to be laid down by the Registrar. This procedure shall be contained in the Instructions to the Registry.

[For the purposes of the initial establishment and the cost estimates, it is assumed that this Service will be headed by a Professional officer (P-3 level) and will have a support staff of four General Service personnel.]

9. Linguistic Services

40. The Linguistic Services will be provided under the supervision of the Registrar and will have the responsibility to ensure the translation of the documentation into the official languages of the Court as necessary. This does not include interpretation services which will be provided on a temporary basis as needed.

[For the purposes of the initial establishment and the cost estimates, it is assumed that the Tribunal will have two working languages and that the Linguistic Services will comprise two Revisers/Translators in the two languages (P-4 level) and two Translators in the two languages (P-3 level). The clerical requirements will be provided by the Department of Office Secretarial Services.]

10. Judiciary Support Services

41. The Support Services for the Members of the Tribunal, including Ad Hoc Members, will be provided by the Judiciary Support Services headed by a First Secretary. They would fulfil the research needs of the 21 Members.

[For the purposes of the initial establishment and the cost estimates, this Service is assumed to be headed by a First Secretary (P-4 level) and to include six Researchers/Legal Assistants (P-2 level) and 10 (General Service) secretaries.]

/...

III. FINANCIAL IMPLICATIONS

42. The overall financial implications may be conveniently divided under two headings. The first comprises the annual and special allowances and related expenses for the Members of the Tribunal, which includes the remuneration of the Ad Hoc Members.

43. The other heading of expenditure would be the cost of the Registry and the support services provided by it. As an initial establishment, the staffing structure has been maintained on the basis of experience of other international courts and tribunals, primarily that of the International Court of Justice, taking into account that the Tribunal has 21 Members and that it also has a Sea-Bed Disputes Chamber. Additionally, the Tribunal also has jurisdiction to deal with such matters as the prompt release of vessels and crews and provisional measures. Access to the Sea-Bed Disputes Chamber by entities other than States is a further factor that has been taken into account.

44. For the purpose of determining the level of services and consequential cost estimates, it is assumed that the annual work-load of the Tribunal will comprise five to six contentious cases and four to six applications such as those for provisional measures or the prompt release of vessels and crews. These estimates are based also on the assumption that the Tribunal will have no more than two languages. The cost implications of six languages would result in a substantial increase of several objects of expenditure which would include increases in (a) the established posts; (b) temporary assistance for meetings; (c) general temporary assistance; (d) temporary posts; and (e) external printing and binding. In the event that alternative costing for six languages is required, this would have to be presented in a separate cost-implications paper. There is no existing precedent for an equivalent international global court functioning concurrently in six languages. There would have to be an indication as to the manner in which the proceedings would be conducted before cost estimates could be provided.

A. Members of the Tribunal

1. Annual and special allowances

45. Article 18, paragraph 1, of the Statute provides that Members shall be paid an annual allowance and a special allowance for each day they exercise their functions. The amount of special allowance cannot exceed the amount of annual allowance (Statute, art. 18, para. 1). For the purpose of the present paper, it is assumed that the total annual remuneration for Members should be consistent with the practice of the International Court of Justice and that of other international tribunals. Taking into account the current remuneration level of the Judges of the International Court, 2/ it is proposed that the total annual remuneration should not exceed $100,000.

2/ It is to be noted that the quinquennial comprehensive review of the emoluments of the Judges of the International Court of Justice is scheduled for the 1990/91 biennium.

46. Of this $100,000, $60,000 could be regarded as an annual allowance and the remaining $40,000 would constitute the maximum special allowance, assuming that a Member of the Tribunal exercises his functions for 100 working days. For each working day, the daily rate of special allowance is thus $400.

47. Members of the Tribunal would have to work at least 100 working days to receive the maximum special allowance. The amount of $60,000 as a fixed annual allowance and the maximum $40,000 special allowance would be based on the assumption that 86 per cent of each amount is the base allowance and the remaining 14 per cent is a cost-of-living allowance which would be adjusted according to the cost-of-living index at the duty station.

48. The President of the Tribunal would receive an additional $15,000 per year as a special allowance, bearing in mind his position and the requirement that he reside at the seat of the Tribunal and be available on a full-time basis. He would therefore be entitled to the annual and special allowances.

49. The Vice-President of the Tribunal is entitled to a special allowance when he acts for the President, and this is computed on the basis of $100 per day for a maximum of 100 days. The maximum allowance therefore would be $10,000.

50. Remuneration levels are to be reviewed and revised periodically by meetings of States Parties on the basis of the work-load of the Tribunal (Statute, art. 18, para. 5; see also footnote 2 *supra*).

2. Ad Hoc Members of the Tribunal and experts appointed under article 289 of the Convention

51. Article 17 of the Statute provides for *Ad Hoc* Members to be treated on the same basis as Members. Although they do not receive an annual allowance, they would receive a special allowance for each day on which they exercise their functions (Statute, art. 18, para. 4). For the purpose of computation, this has been set at the same level as that paid to the members at $400 per day for each day they make themselves available for the work of the Tribunal. The same rate of allowance has been applied to experts appointed under article 289 of the Convention who sit with the Tribunal.

3. Retirement benefits, installation, travel, etc.

52. For the purposes of the estimates, the retirement benefits of the Members will be based on the annual base remuneration on the assumption that the contribution will only be made by the Tribunal. The contribution by the Tribunal is assumed to be the same percentage as contributed by the United Nations for its staff. For the purposes of this computation, the average annual remuneration of a Member is estimated as the full amount of the annual allowance and 50 per cent of the maximum special daily allowance.

/...

53. The estimated requirements for the travel of non-resident judges to attend sessions of the Tribunal have been assumed at two journeys per annum, and at one journey every second year for those who reside at the seat of the Tribunal.

54. Official travel requirements would be provided to permit the President to attend meetings of the International Sea-bed Authority as well as travel and subsistence for travel of Members on other official business of the Tribunal.

B. Registry

55. The establishment for the Registry has been based on an initial establishment consistent with the size and functions corresponding to those of other international courts, in particular, the International Court of Justice. Allowance has been made for the fact that the Registry of the Tribunal would not have the support services enjoyed by the Registry of the International Court which is an organ of the United Nations. In addition, it has been taken into account that the membership of the Tribunal is substantially larger than that of the International Court. Should the work-load of the Tribunal be substantially greater than that assumed for the purposes of these estimates (see para. 44 above), additional temporary assistance services would be required.

56. The initial establishment of the Tribunal would be composed as indicated in annex II to the present paper, comprising a Registrar at the Assistant Secretary-General level and a Deputy Registrar at the Director level. The 31 Professional posts and their designations are also contained in annex II. Forty-five General Service posts are also proposed for the purposes of the initial establishment.

57. Temporary assistance for meetings is primarily intended for language and secretarial services that cannot be performed by regular staff. This would include the funds required for recruitment and travel of free-lance interpreters, translators and steno-typists required for documentation of the Tribunal prior to and during the servicing of meetings and public hearings.

58. General temporary assistance is intended to provide General Service level support services such as those of additional secretaries, messengers, library assistants and telephone operators.

59. Overtime requirements are intended to cover secretarial assistance to Members and ad hoc members and for regular staff during peak work-load periods.

60. A provision for official travel of staff is based on requirements for staff travel for official purposes.

61. A composite budgetary statement of the overall annual recurrent financial implications is contained in annex III to the present paper.

Annex I

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL

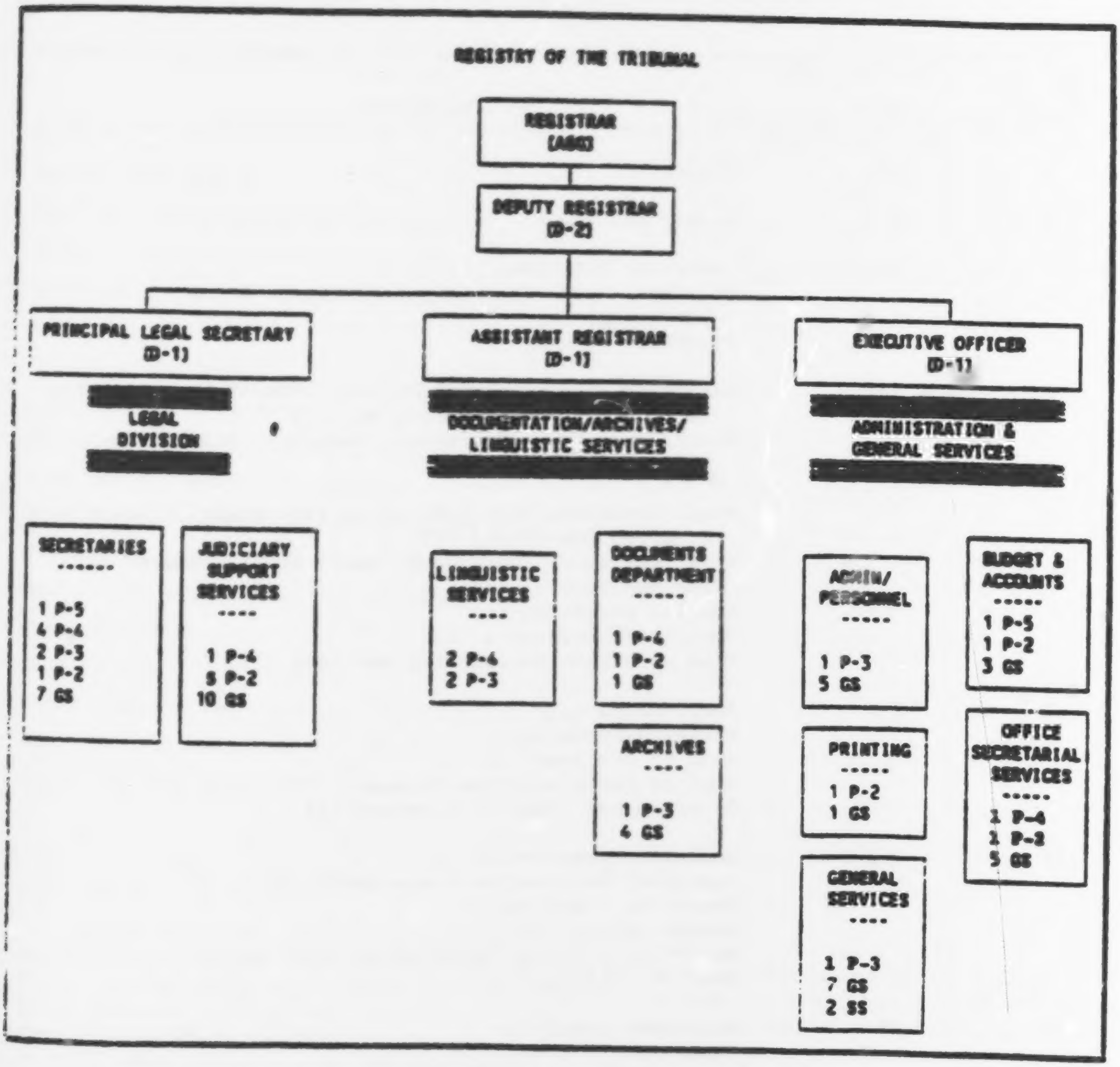
REGISTRY OF THE TRIBUNAL
REGISTRAR (ASG)
DEPUTY REGISTRAR (D-2)
PRINCIPAL LEGAL SECRETARY (D-1)
ASSISTANT REGISTRAR (D-1)
EXECUTIVE OFFICER (D-1)
LEGAL DIVISION
DOCUMENTATION/ARCHIVES/ LINGUISTIC SERVICES
ADMINISTRATION & GENERAL SERVICES
SECRETARIES ------ 1 P-5 4 P-4 2 P-3 1 P-2 7 GS
JUDICIARY SUPPORT SERVICES ---- 1 P-4 5 P-2 10 GS
LINGUISTIC SERVICES ---- 2 P-4 2 P-3
DOCUMENTS DEPARTMENT ----- 1 P-4 1 P-2 1 GS
ARCHIVES ---- 1 P-3 4 GS
ADMIN/ PERSONNEL ----- 1 P-3 5 GS
PRINTING ----- 1 P-2 1 GS
GENERAL SERVICES ---- 1 P-3 7 GS 2 SS
BUDGET & ACCOUNTS ----- 1 P-5 1 P-2 3 GS
OFFICE SECRETARIAL SERVICES ----- 1 P-4 1 P-2 5 GS

Table 1. Post Requirements

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS Princ. Level	Other Level	TOTAL
1	1	3	2	9	7	10	8	37	78

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Annex II

STAFFING STRUCTURE OF THE REGISTRY OF THE TRIBUNAL

No. of Posts	Level	Functions
1	ASG	Registrar
1	D-2	Deputy Registrar
3	D-1	Assistant Registrar (1) Principal Legal Secretary [Secretary, Rules Committee] (1) Executive Officer (1)
2	P-5	Accountant/Establishment Officer [Secretary, Budgetary and Administrative Committee] (1) Senior Secretary [Secretary, Relations and Public Information] (1)
9	P-4	Head, Documents Dept./Librarian [Secretary, Library and Archives Committee] (1) First Secretary [Secretary, Staff Appeals Board] (1) First Secretaries (3) Special Assistant (1) Revisers/Translators (2) Head of Office Secretarial Services (1)
7	P-3	Secretaries (2) Revisers/Translators (2) Head of Archives (1) Head of Administration/Personnel (1) Co-ordinator, General Services (1)
16	P-3/P-1	Associate Secretaries (1) Judiciary Secretaries/Researchers (6) Associate Librarian (1) Budget Officer (1) Supervisor, Office Secretarial Services (1) Head of Printing (1)
45	GS	Principal level (8) Other levels (35) Security Officers (2)

Annex III

SUMMARY OF RECURRENT FINANCIAL IMPLICATIONS

Objects of expenditure	Annual costs (In thousands of United States dollars)
Established posts	3 362.7
Temporary assistance for meetings	260.0
General temporary assistance	78.0
Overtime	24.0
Temporary posts	566.2
Common staff costs	1 424.5
Representation allowances	3.6
Official travel of staff	39.0
External printing and binding	210.0
Annual and special allowances of Members	2 396.3
Rental and maintenance of premises	200.0
Rental and maintenance of equipment	48.0
Communications	90.0
Hospitality	5.0
Miscellaneous services	4.0
Supplies and materials	125.0
Furniture and equipment	50.0
Total	8 886.3

Note: Data on costs of established posts, common staff costs, and representation allowance are based on the United Nations "Standard Costs Version 22/90" of May 1989, the latest published version currently available. That version gives standard salary costs for 1989, 1990 and 1991. In the above table, the 1991 costs are taken since that is the year closest to the prospective entry into force of the Convention. In the absence of data on duty station Hamburg, the data on duty station The Hague are used in the table. Costs of established posts include net base salary plus post adjustment

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LOS/PCN/SCN.4/WP.8/Add.1*
17 August 1990

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 13-31 August 1990

ADMINISTRATIVE ARRANGEMENTS, STRUCTURE AND FINANCIAL IMPLICATIONS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Supplementary cost estimates reflecting alternatives as to official working languages)

(Prepared by the Secretariat)

Addendum

Introductory note

1. Special Commission 4, in discussing the working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.8), requested the Secretariat to present the implications of the Tribunal utilising one official working language and six official working languages. The present addendum to the working paper contains the relevant estimates.

2. In order to facilitate a comparative evaluation between the cost implications of the alternatives as regards the number of official working languages, a consistent approach has been maintained in evaluating the institutional structure and the staffing requirements as presented in LOS/PCN/SCN.4/WP.8 and in the present addendum.

3. For the purposes of these estimates, the provisional staffing structure, including the linguistic staff, and the level of documentation and services have

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* Reissued for technical reasons.

been based on the relevant practice and experience of international courts and tribunals, particularly that of the International Court of Justice, bearing in mind the special needs of the International Tribunal. The present addendum also reflects the indications emanating from the Special Commission as regards services and as regards facilities to be provided by the host country. In relation to items concerning which there is an absence of practical experience regarding institutional structure and supplementary services, the assumptions reflect standards and practices common to institutions within the United Nations system.

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL
(FOR ONE OFFICIAL WORKING LANGUAGE)

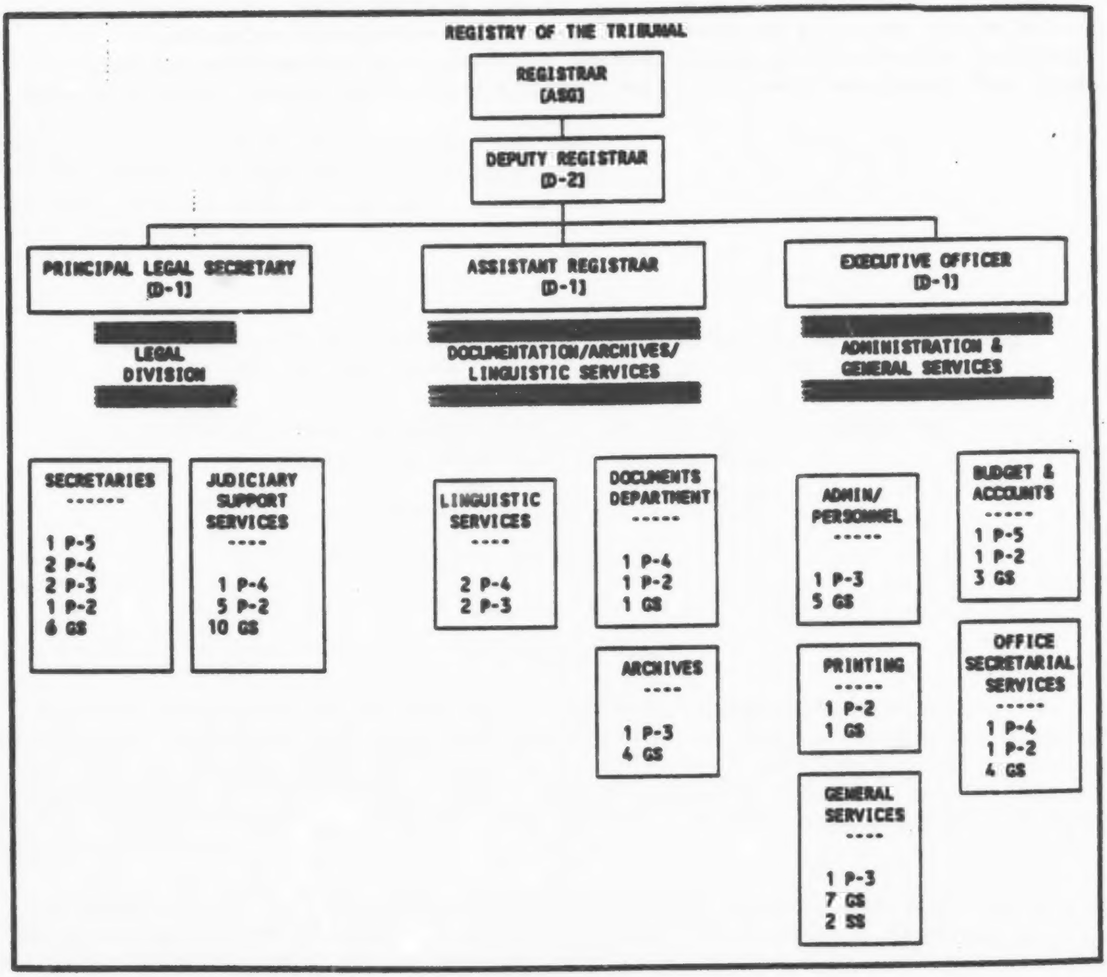
REGISTRY OF THE TRIBUNAL
REGISTRAR [ASG]
DEPUTY REGISTRAR [D-2]
PRINCIPAL LEGAL SECRETARY [D-1]
ASSISTANT REGISTRAR [D-1]
EXECUTIVE OFFICER [D-1]
LEGAL DIVISION
DOCUMENTATION/ARCHIVES/ LINGUISTIC SERVICES
ADMINISTRATION & GENERAL SERVICES
SECRETARIES ------ 1 P-5 2 P-4 2 P-3 1 P-2 6 GS
JUDICIARY SUPPORT SERVICES ---- 1 P-4 5 P-2 10 GS
LINGUISTIC SERVICES ---- 2 P-4 2 P-3
DOCUMENTS DEPARTMENT ----- 1 P-4 1 P-2 1 GS
ARCHIVES ---- 1 P-3 4 GS
ADMIN/ PERSONNEL ----- 1 P-3 5 GS
BUDGET & ACCOUNTS ----- 1 P-5 1 P-2 3 GS
PRINTING ----- 1 P-2 1 GS
OFFICE SECRETARIAL SERVICES ----- 1 P-4 1 P-2 4 GS
GENERAL SERVICES ---- 1 P-3 7 GS 2 SS

Table 1. Post Requirements
(For 1 official working language)

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS Princ. Level	Other Level	TOTAL
1	1	3	2	7	7	10	8	35	74

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL
(FOR SIX OFFICIAL WORKING LANGUAGES)

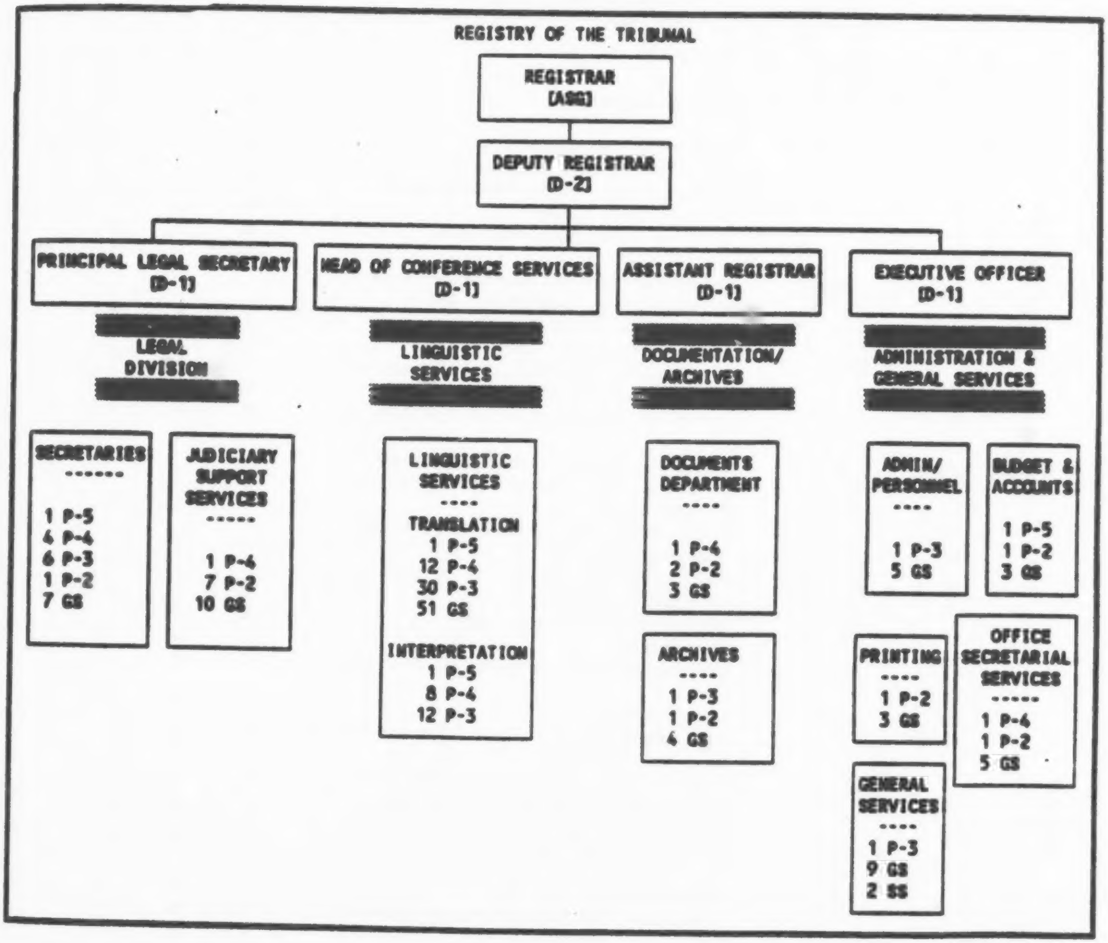
REGISTRY OF THE TRIBUNAL
REGISTRAR [ASG]
DEPUTY REGISTRAR [D-2]
PRINCIPAL LEGAL SECRETARY [D-1]
HEAD OF CONFERENCE SERVICES [D-1]
ASSISTANT REGISTRAR [D-1]
EXECUTIVE OFFICER [D-1]
LEGAL DIVISION
LINGUISTIC SERVICES
DOCUMENTATION/ ARCHIVES
ADMINISTRATION & GENERAL SERVICES
SECRETARIES ------ 1 P-5 4 P-4 6 P-3 1 P-2 7 GS
JUDICIARY SUPPORT SERVICES ----- 1 P-4 7 P-2 10 GS
LINGUISTIC SERVICES ---- TRANSLATION 1 P-5 12 P-4 30 P-3 51 GS INTERPRETATION 1 P-5 8 P-4 12 P-3
DOCUMENTS DEPARTMENT ---- 1 P-4 2 P-2 3 GS
ARCHIVES ---- 1 P-3 1 P-2 4 GS
ADMIN/ PERSONNEL ---- 1 P-3 5 GS
BUDGET & ACCOUNTS 1 P-5 1 P-2 3 GS
PRINTING ---- 1 P-2 3 GS
OFFICE SECRETARIAL SERVICES ----- 1 P-4 1 P-2 5 GS
GENERAL SERVICES ---- 1 P-3 9 GS 2 SS

Table 1. Post Requirements
(For 6 official working languages)

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS Princ. Level	Other Level	TOTAL
1	1	4	4	27	51	14	23	79	204

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Staffing structure of the Registry of the Tribunal

Number of posts Languages			Level	Functions	Number of posts Languages		
One	Two	Six			One	Two	Six
1	1	1	ASG	Registrar	1	1	1
1	1	1	D-2	Deputy Registrar	1	1	1
3	3	4	D-1	Assistant Registrar	1	1	1
				Principal Legal Secretary (Secretary, Rules Committee)	1	1	1
				Executive Officer	1	1	1
				Head of Conference Services a/	0	0	1
2	2	4	P-5	Accountant/Establishment Officer (Secretary, Budgetary and Administrative Committee)	1	1	1
				Senior Secretary (Secretary, Relations and Public Information)	1	1	1
				Chief of Translation Section a/	0	0	1
				Chief of Interpretation Section a/	0	0	1
7	9	27	P-4	Head, Documents Dept./Librarian (Secretary, Library and Archives Committee)	1	1	1
				First Secretary (Secretary, Staff Appeals Board)	1	1	1
				First Secretaries b/	1	3	3
				Special Assistant	1	1	1
				Revisers/Translators a/	2	2	12
				Interpreters a/	0	0	8
				Head of Office Secretarial Services	1	1	1
7	7	51	P-3	Secretaries	2	2	6
				Revisers/Translators/Précis Writers a/	2	2	24
				Head of Archives	1	1	1
				Administrative/Personnel Officer	1	1	1
				Co-ordinator, General Services	1	1	1
				Interpreters a/	0	0	12
				Terminologists a/	0	0	6
10	10	14	P-2/P-1	Associate Secretaries	1	1	1
				Judiciary Secretaries/Researchers a/	5	5	7
				Associate Librarian a/	1	1	2
				Budget Officer	1	1	1
				Supervisor, Office Secretarial Services	1	1	1
				Head of Printing	1	1	1
				Associate Archives Officer a/	0	0	1
43	45	102	GS	Principal level a/	8	8	23
				Other levels a/, b/	33	35	43
				Security Officers	2	2	2
				Sound Engineers a/	0	0	2
				Typists for Conference Services a/	0	0	31
74	78	204		TOTAL	74	78	204

a/ Additional post(s) for six official languages in comparison with two languages.

b/ Reduction in posts for one official language in comparison with two languages.

Summary of recurrent financial implications

Objects of expenditure	Annual costs, thousands of United States dollars For one language a/	For two languages a/	For six languages b/
Established posts	3 197.3	3 362.7	8 995.4
Temporary assistance for meetings	260.0	260.0	680.0
General temporary assistance	78.0	78.0	204.0
Overtime	24.0	24.0	62.8
Temporary posts	566.2	566.2	1 480.8
Common staff costs	1 376.5	1 424.5	2 607.7
Representation allowances	3.6	3.6	3.6
Official travel of staff	39.0	39.0	39.0
External printing and binding b/	210.0	210.0	1 410.0 b/
Annual and special allowances of Members	2 396.3	2 396.3	2 396.3
Rental and maintenance of premises	200.0	200.0	200.0
Rental and maintenance of equipment	48.0	48.0	125.5
Communications	90.0	90.0	235.4
Hospitality	5.0	5.0	5.0
Miscellaneous services	4.0	4.0	10.5
Supplies and materials	125.0	125.0	326.9
Furniture and equipment	50.0	50.0	130.8
Total	8 672.9	8 886.3	8 913.7

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a/ These preliminary estimates are based on the assumption that the Tribunal will have no more than the specified number of working languages shown in the relevant column. However, the judgments and pleadings would later be published externally as unofficial translations in the other working languages of the United Nations.

b/ Estimates for external printing are tentative. They may have to be revised depending on volume and external printing rates at the duty station.

LOS/PCN/SCN.4/WP.8/Add.1/Corr.1
28 September 1990

ENGLISH ONLY

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 13-31 August 1990

ADMINISTRATIVE ARRANGEMENTS, STRUCTURE AND FINANCIAL IMPLICATIONS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Supplementary cost estimates reflecting alternatives as to official working languages)

(Prepared by the Secretariat)

Addendum

Corrigendum

Page 6, Summary of recurrent financial implications

Under the column entitled "For six languages", the entry for "Total" should read 18 913.7

LOS/PCN/SCN.4/WP.8/Add.2
29 August 1990

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 13-31 August 1990

ADMINISTRATIVE ARRANGEMENTS, STRUCTURE AND FINANCIAL IMPLICATIONS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Addendum)

(A scheme to phase in the establishment of the International Tribunal for the Law of the Sea)

(Prepared by the Secretariat)

INTRODUCTION

1. Special Commission 4 requested the Secretariat to prepare a working paper outlining a scheme for phasing in the establishment of the Tribunal to serve during the initial stages of its existence. The paper was required to reflect the most efficient initial institutional structure taking special account of the necessity for economy and for minimizing the financial burden on States Parties. The working paper was required to be based on the deliberations in the Special Commission on the administrative arrangements, structure and financial implications of the Tribunal, as reflected in document LOS/PCN/SCN.4/WP.8, which envisages an active and functional Tribunal with two official working languages. The present paper proceeds on the same basis regarding the number of official working languages.

I. CRITERIA

2. The Convention, including the Statute of the Tribunal, and the Draft Rules 1/ provide the primary framework within which the Tribunal would function. The appropriate international practice, where relevant, in particular that of the International Court of Justice, have been resorted to for guidance in determining the manner in which the Tribunal would operate and in identifying a functional framework for the Tribunal. Particular note has been made of the fact that the Tribunal is responsible for its internal functioning and has a wide degree of

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best copy available

discretion in establishing the modalities for doing so. For the purpose of estimating relevant financial implications, the experience of similar institutions has been resorted to for guidance, while the United Nations practice has been used as the basis for staff remuneration and allowances.

3. The Convention establishes a Tribunal with 21 independent members who should have the requisite qualifications and competences. 2/ The Convention also requires the representation of the principal legal systems of the world and equitable geographic distribution in the constitution of the Tribunal as a whole. 3/ It further specifies that no less than three members should be from each geographic group established by the General Assembly of the United Nations. 4/

4. The Statute further requires that all available members of the Tribunal shall sit and that a quorum of 11 elected members shall be required to constitute the Tribunal. The determination as to which members are available to constitute the Tribunal for a particular dispute is to be made by the Tribunal itself, 5/ subject to the nationality requirements. 6/ If the parties request, the disputes or application would be heard and determined by a chamber; otherwise it would be submitted to the Tribunal. 7/ Disputes relating to the international sea-bed area and submitted in accordance with Part XI of the Convention would be submitted to the Sea-Bed Disputes Chamber.

5. The Sea-Bed Disputes Chamber comprises 11 members of the Tribunal selected by it from among the 21 members. It can establish ad hoc chambers of three members. 8/ The membership of the special chambers of the Tribunal, which include the Chamber of Summary Procedure with five members, 9/ and the standing special chambers with three or more members for dealing with particular categories of disputes, could overlap, since there is no restriction. Such would be the case also in constituting ad hoc chambers of the Tribunal, assuming that they were composed of no more than five members. 10/ Their composition is decided on by the Tribunal with the approval of the parties to the dispute.

6. The requirements set out in paragraphs 3 to 5 above are the primary requirements of the Convention. They provide the institutional framework for the judiciary of the Tribunal when exercising its contentious or advisory jurisdiction.

II. APPROACH

7. In responding to the request of Special Commission 4, the Secretariat has attempted to ensure that:

(a) The approach is consistent with the requirements of the Convention and the Statute of the Tribunal;

(b) The Tribunal and its chambers are able to respond, within a reasonable time frame and given the circumstances, to urgent cases, applications, or requests for advisory opinions submitted to it;

(c) The institution and its staffing provide a viable Registry with the capacity to serve the needs of the Tribunal.

/...

8. Given the provisions of the Statute concerning the election of members, the working paper provides for the fulfilment of the requirement that all 21 Judges be elected at the initial election. This is in compliance with the letter of the Statute. 11/ It also fulfils the requirement of geographic distribution and representation of the principal legal systems as stipulated therein.

9. The Statute does not require that all members should function in each case. It also does not require the members to reside at the seat of the Tribunal, with the exception of the President. For the purpose of these proposals, it is assumed that the President and the Vice-President would always be available at the seat of the Tribunal and that a minimal number of other members would also be available at all times.

10. Two of the alternatives in these proposals provide for the availability of five or more members at the seat of the Tribunal on a regular basis. These alternatives would permit the constitution of the standing and *ad hoc* chambers of limited size. This is consistent with the more recent trends in the experience of international courts and tribunals, which is that disputant parties tend to resort to pre-constituted or *ad hoc* chambers, as compared with the frequency with which there are requests for the constitution of the full tribunal to hear or determine a case or application.

11. These alternatives ensure the availability of the Chamber of Summary Procedure which could be pre-constituted and may be resorted to at any time. 12/ They would also permit the constitution of special chambers comprising a minimum of three members for dealing with particular categories of disputes. 13/

12. These alternative proposals would also permit appropriate geographic distribution and representation of the principal legal systems even within the chambers. The proposals also make it possible to convene all members of the Tribunal or to convene 11 members who would constitute a quorum of the whole Tribunal, as and when required, without any restriction and without undue delay.

13. The proposals do not in any way restrict the possibility for the full Tribunal to be constituted and to meet immediately following its initial establishment for such period as may be required to adopt its rules of procedure and other internal rules for its functioning or for its administration.

14. As and when the work-load of the Tribunal increases, or when there is an intensity of work at any point, the Tribunal can function either in its fully constituted form or in its initial form.

III. SCHEME FOR INITIAL ESTABLISHMENT OF THE TRIBUNAL AND REQUISITE REGISTRY

A. Elections

15. The initial election requires a division of 21 vacancies into three groups of seven, the first of which will serve for three years, the second for six years and the third for nine years. All subsequent elections would be for a nine-year term

/...

with seven vacancies coming up every three years. There need be no variance of this scheme for the initial phase. The system of nomination and election would also remain unchanged.

B. Availability of members

16. The Statute does not require that the elected members should refrain from employment or activity, other than certain specified activities. The members are required to refrain from any political or administrative function. They should not have any active association or financial interest in the operations of any enterprise involved in ocean resource exploration or exploitation or commercial uses of the sea or sea-bed. The only other restriction is that they may not act as agent, counsel or advocate in any case. They could thus maintain a professional occupation or some form of employment that is not subject to this restriction, unless they are required to be present at the seat of the Tribunal.

17. During the inital phase, even though all 21 members are elected in order to comply with the requirements of the Convention, the Tribunal would have the discretion to utilize a limited number of members on a continuing basis, while the others held themselves available. The Tribunal could fix a term and identify a limited number of members who, in the first instance, are to be present and available at the Seat for the duration. The others would be aware that it was unlikely that they would be called upon to serve. Thus, they would be relatively free to be otherwise occupied. During the next term of such an arrangement, a similar number of members would be identified on the basis of rotation. Such a system of rotation would need to be carried out on an equitable basis. Thus, during the initial phase, a limited number of members would be required to be present at all times at the Seat, while the others remained in their usual places of residence.

18. The President is required to reside at the Seat of the Tribunal 14/ and it can be reasonably assumed that the Vice-President would also be required to be present at the Seat at all times. The first alternative is for only these two members to be resident and available at the seat of the Tribunal. However, this would not enable the Tribunal to function without securing the presence at the Seat of an additional number of members as required to constitute a chamber, or to fulfil the quorum requirement.

19. Assuming that all geographic groups should be represented at the seat of the Tribunal, the minimum number required would be five members present at all times. If it is intended to have a quorum of members constituting the Tribunal present, then the number of members involved would be a minimum of 11. This would also permit appropriate geographical distribution. If any of these cases, i.e., whether 2, 5 or 11 members are required to be present at the Seat at all times, then the other members would hold themselves available, in the event that a greater number of members is required or when a full Tribunal has to be constituted.

20. The first alternative in the attached cost implications is founded on the assumption that those members present at all times at the seat of the Tribunal would be the President, as required by the Convention, 14/ and the Vice-President as well.

21. The second alternative in the cost implications is based on the assumption that the President and the Vice-President and a minimum of three other members would at all times be available at the Seat. This alternative would permit the constitution of the standing chambers or special chambers as well as a Chamber of Summary Procedure, each of which requires no more than five members. 15/ Even the *ad hoc* chambers could be constituted, if they are of limited size.

22. The third alternative would be for 11 members to be available at all times, including the President and Vice-President. This would permit not only the constitution of the special chambers and the Chamber of Summary Procedure, but also the constitution of the whole Tribunal with the quorum requirement fulfilled and the constitution of the Sea-Bed Disputes Chamber as well.

C. Remuneration of members

23. The Statute provides for the members to be remunerated on the basis of annual allowances and special allowances. In any case where a member is present at the seat of the Tribunal at all times, the remuneration would be the full amount of the annual allowance and the full amount of the special allowance. 16/ The special allowance is payable for every day on which a member exercises his functions. 17/ In addition, the President receives a special allowance, 18/ and the Vice-President would receive the same for each day on which he acts as President. 19/

24. In order to minimize the cost implications during the initial phase, or at those times when the Tribunal is not relatively active, it is proposed in the attached estimates that the amount of annual allowance should be kept at the basic level. Thus, those members who only hold themselves available at their usual places of residence and who are not present at the seat of the Tribunal would only receive an annual allowance, which for the purpose of the estimates in the present working paper has been established at $25,000. They would not receive a special allowance or any other remuneration in the usual course, unless they are called upon to serve. Their total remuneration would only be the amount of the annual allowance.

25. For those members who are called upon to serve, the special allowance for a year cannot exceed the annual allowance, 20/ and on the basis of the estimates in the present working paper the maximum special allowance would be $25,000.

26. Given the need to maintain a presence at the Seat of the Tribunal, under the estimates it is proposed that a supplementary subsistence allowance applicable to the Seat should be paid. While the payment of the annual and special allowances is specified in the Statute, there is no provision in the Convention which would prevent the payment of a subsistence allowance. Where a member's presence is required at the Seat for a prolonged period, the maximum amount of subsistence allowance would be for 250 days 21/ in any calendar year. Utilizing the current level of subsistence payment under United Nations practice for Hamburg, the maximum amount of subsistence payment for any calendar year would therefore be computed at $62,500. 22/ Thus, the maximum remuneration that a member would receive, including the maximum subsistence allowance, would be $112,500 per year. 23/ When the Tribunal is fully functional and active, the subsistence component would be incorporated into the basic annual and special allowances.

/...

D. Structure and staff of the Registry

27. The structure and staffing of the Registry would, to a certain degree, depend on the level of activity of the Tribunal:

(a) Assuming that there are only two resident members and a minimal work-load, the structure of the Registry and corresponding staffing and cost implications are reflected in scheme A of annex I to the present paper, and the corresponding columns in annexes II and III;

(b) Assuming that five members are continuously present, with the same case-load, the corresponding staffing structure is to be found in scheme B of annex I and the corresponding staffing and cost implications in annexes II and III;

(c) Assuming that 11 members are present at all times with the same work-load, the corresponding staffing structure and cost implications are reflected in annexes II and III.

28. As compared with LOS/PCN/SCN.4/WP.8 and Add.1, the structure of the Registry and staffing requirements for a minimal initial establishment also reflect an approach whereby Professional and General Service staffing is based on the recruitment of multivalent staff who have combined capabilities. For instance, the secretaries might have legal, political or technical expertise combined with linguistic capabilities; such could also be the case with the judicial support services. As regards the General Service staff, again it is assumed that some would have combined capabilities. This approach is consistent with the staffing of other international courts and tribunals, particularly the Registry of the International Court of Justice, which with a limited number of staff provides the range of services required. This approach has permitted further streamlining of staff requirements, as reflected in the attached estimates.

IV. GENERAL

29. Where there is a fluctuation in the number of members present at the Seat for any period of time, or regarding the work-load, the cost implications would not be directly proportional. The estimated costs are on an annual basis and are indicative for planning purposes. They are only applicable in accordance with the assumptions referred to. They would not hold if applied to shorter periods. Any increase in needs, even for short periods, would require increases at least in temporary assistance and contractual services.

Notes

1/ LOS/PCN/SCN.4/WP.2/Rev.1/Parts I and II.

2/ Annex VI, art. 2, para. 1.

3/ *Ibid*., para. 2.

4/ *Ibid*., art. 3, para. 2.

5/ *Ibid*., art. 13, para. 2.

6/ *Ibid*., art. 17.

7/ *Ibid*., art. 15, paras. 3 and 4.

8/ *Ibid*., art. 35 and art. 36, para. 1.

9/ *Ibid*., art. 15, para. 3.

10/ *Ibid*., art. 15, para. 2.

11/ *Ibid*., art. 2.

12/ *Ibid*., art. 15, para. 3.

13/ *Ibid*., art. 15, para. 1.

14/ *Ibid*., art. 12, para. 3.

15/ *Ibid*., art. 15.

16/ *Ibid*., art. 18, para. 1.

17/ For computational purposes, the number of working days in a calendar year is established at 250 days. This takes account of weekends and vacation time.

18/ *Ibid*., art. 18, para. 2.

19/ *Ibid*., art. 18, para. 3.

20/ *Ibid*., art. 18, para. 1.

21/ See note 17, *supra*.

22/ This computation is based on the current United Nations subsistence rate for Hamburg (approximately $250 per day) paid for a period of 250 days.

23/ This would bring the total remuneration of a member who is present and functions throughout the year to a level comparable to the salaries of judges of other international courts and tribunals.

/...

Annex I

(Scheme A)

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL

(SCHEME A)

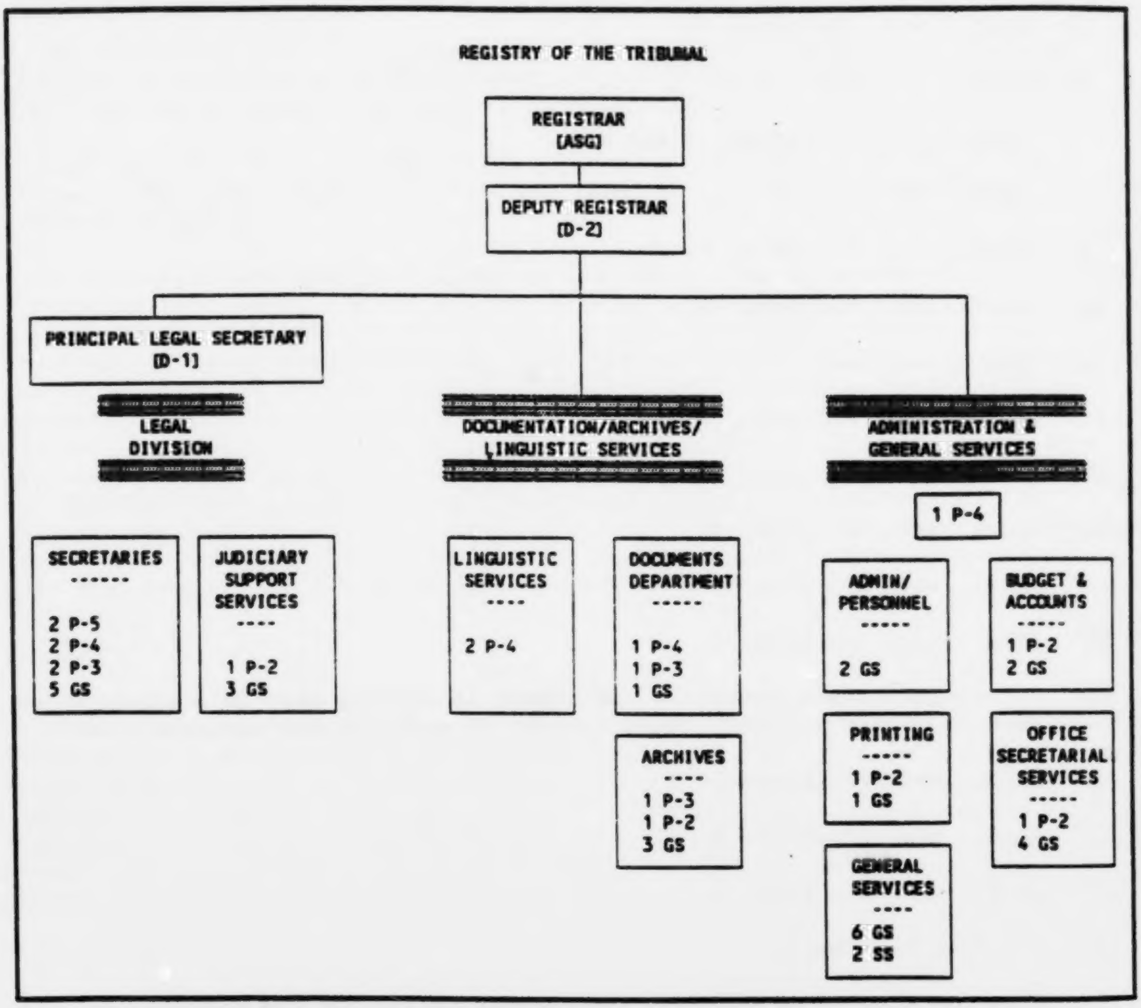
REGISTRY OF THE TRIBUNAL
REGISTRAR [ASG]
DEPUTY REGISTRAR [D-2]
PRINCIPAL LEGAL SECRETARY [D-1]
LEGAL DIVISION
DOCUMENTATION/ARCHIVES/ LINGUISTIC SERVICES
ADMINISTRATION & GENERAL SERVICES
1 P-4
SECRETARIES ------ 2 P-5 2 P-4 2 P-3 5 GS
JUDICIARY SUPPORT SERVICES ---- 1 P-2 3 GS
LINGUISTIC SERVICES ---- 2 P-4
DOCUMENTS DEPARTMENT ----- 1 P-4 1 P-3 1 GS
ARCHIVES ---- 1 P-3 1 P-2 3 GS
ADMIN/ PERSONNEL ----- 2 GS
BUDGET & ACCOUNTS ----- 1 P-2 2 GS
PRINTING ----- 1 P-2 1 GS
OFFICE SECRETARIAL SERVICES ----- 1 P-2 4 GS
GENERAL SERVICES ---- 6 GS 2 SS

Table 1. Post Requirements

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS Princ. Level	Other Level	TOTAL
1	1	1	2	6	4	5	4	25	49

/...

Annex I

(Scheme B)

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL

(SCHEME B)

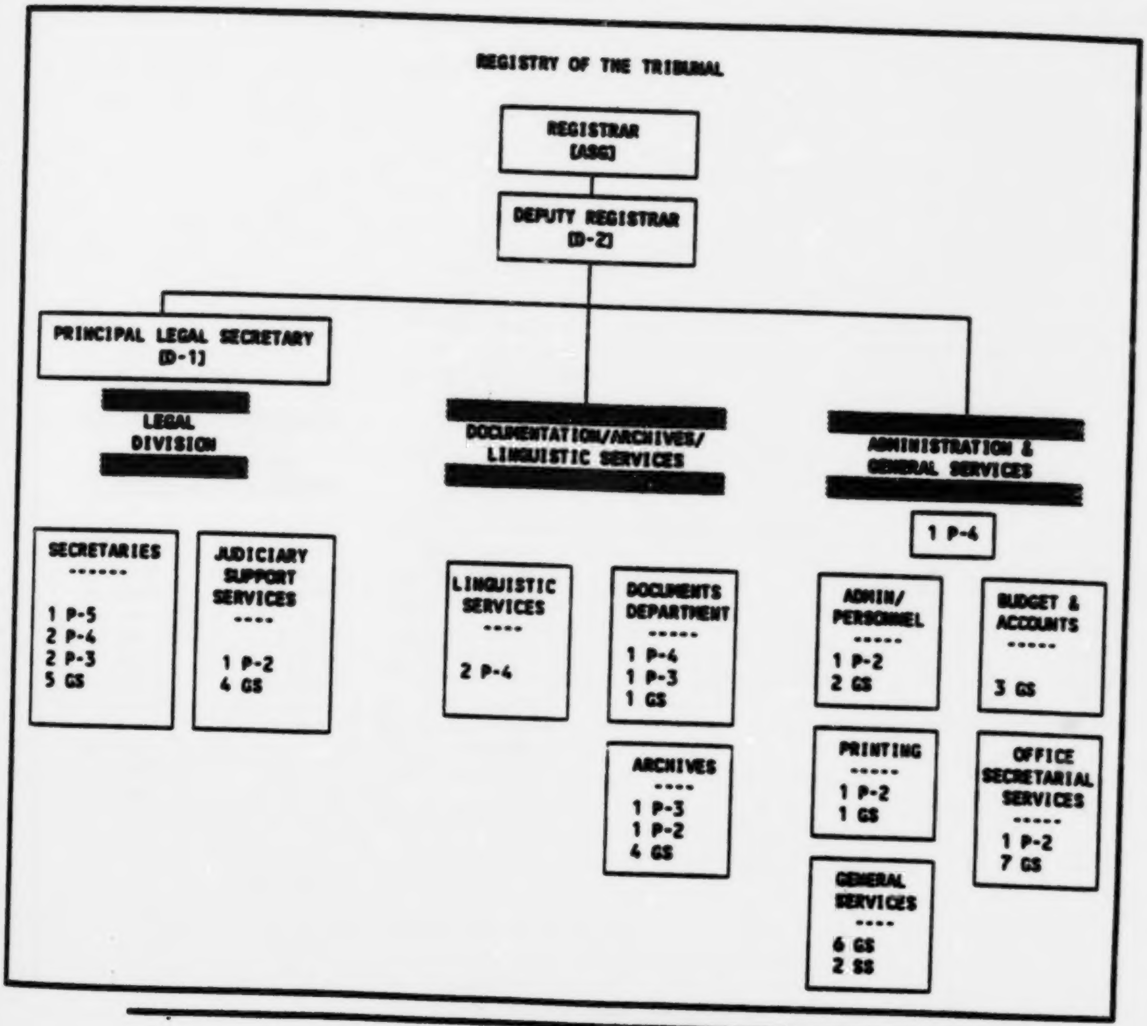
REGISTRY OF THE TRIBUNAL
REGISTRAR [ASG]
DEPUTY REGISTRAR [D-2]
PRINCIPAL LEGAL SECRETARY [D-1]
LEGAL DIVISION
DOCUMENTATION/ARCHIVES/ LINGUISTIC SERVICES
ADMINISTRATION & GENERAL SERVICES
1 P-4
SECRETARIES ------ 1 P-5 2 P-4 2 P-3 5 GS
JUDICIARY SUPPORT SERVICES ---- 1 P-2 4 GS
LINGUISTIC SERVICES ---- 2 P-4
DOCUMENTS DEPARTMENT ----- 1 P-4 1 P-3 1 GS
ARCHIVES ---- 1 P-3 1 P-2 4 GS
ADMIN/ PERSONNEL ----- 1 P-2 2 GS
BUDGET & ACCOUNTS ----- 3 GS
PRINTING ----- 1 P-2 1 GS
OFFICE SECRETARIAL SERVICES ----- 1 P-2 7 GS
GENERAL SERVICES ---- 6 GS 2 SS

Table 1. Post Requirements

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS		TOTAL
							Princ. Level	Other Level	
1	1	1	3	6	4	5	5	30	56

/...

Annex I

(Scheme C)

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL

(SCHEME C)

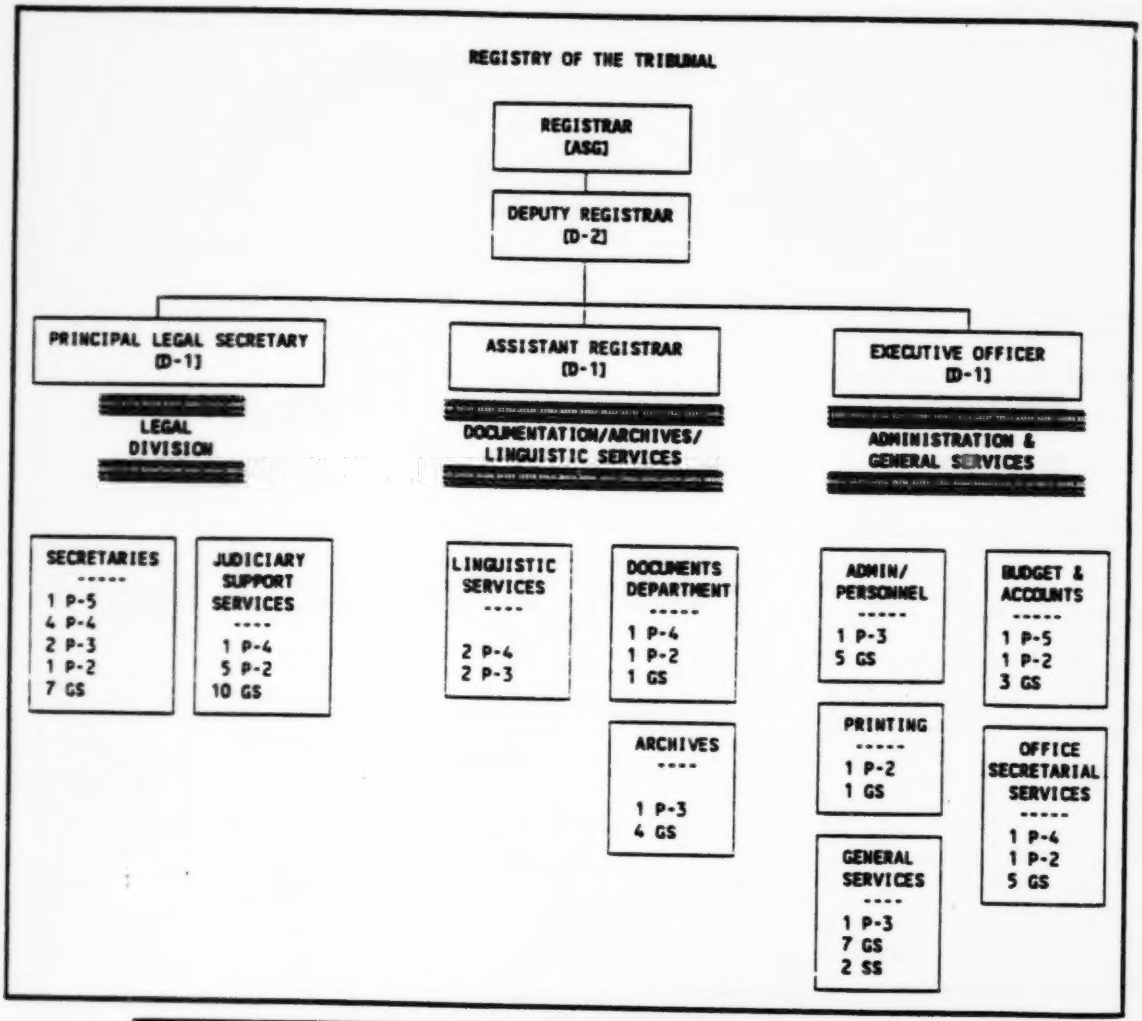
REGISTRY OF THE TRIBUNAL
REGISTRAR [ASG]
DEPUTY REGISTRAR [D-2]
PRINCIPAL LEGAL SECRETARY [D-1]
LEGAL DIVISION
ASSISTANT REGISTRAR [D-1]
DOCUMENTATION/ARCHIVES/ LINGUISTIC SERVICES
EXECUTIVE OFFICER [D-1]
ADMINISTRATION & GENERAL SERVICES
SECRETARIES ----- 1 P-5 4 P-4 2 P-3 1 P-2 7 GS
JUDICIARY SUPPORT SERVICES ---- 1 P-4 5 P-2 10 GS
LINGUISTIC SERVICES ---- 2 P-4 2 P-3
DOCUMENTS DEPARTMENT ----- 1 P-4 1 P-2 1 GS
ARCHIVES ---- 1 P-3 4 GS
ADMIN/ PERSONNEL ----- 1 P-3 5 GS
PRINTING ----- 1 P-2 1 GS
GENERAL SERVICES ---- 1 P-3 7 GS 2 SS
BUDGET & ACCOUNTS ----- 1 P-5 1 P-2 3 GS
OFFICE SECRETARIAL SERVICES ----- 1 P-4 1 P-2 5 GS

Table 1. Post Requirements

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS		TOTAL
							Princ. Level	Other Level	
1	1	3	2	9	7	10	8	37	78

/...

Annex II

STAFFING STRUCTURE OF THE REGISTRY OF THE TRIBUNAL

Number of posts					Number of posts		
Schemes					Schemes		
A	B	C	Level	Functions	A	B	C
1	1	1	ASG	Registrar	1	1	1
1	1	1	D-2	Deputy Registrar	1	1	1
1	1	3	D-1	Assistant Registrar	0	0	1
				Principal Legal Secretary (Secretary, Rules Committee)	1	1	1
				Executive Officer	0	0	1
2	3	2	P-5	Accountant/Establishment Officer (Secretary, Budgetary and Administrative Committee)	0	1	1
				Senior Secretary (Secretary, Public Relations)	1	1	1
				Senior Secretary	1	1	0
6	6	9	P-4	Accountant/Establishment Officer	1	1	0
				Head, Documents Dept./Librarian (Secretary, Library and Archives Committee)	1	1	1
				First Secretary (Secretary, Staff Appeals Board)	1	1	1
				First Secretaries	0	0	3
				Special Assistant	0	0	1
				Revisers/Translators	2	2	2
				Information Officer	1	1	0
				Head of Office Secretarial Services	0	0	1
4	4	7	P-3	Secretaries	1	1	2
				Special Assistant	1	1	0
				Revisers/Translators	0	0	2
				Head of Archives	1	1	1
				Head of Administration/Personnel	0	0	1
				Co-ordinator, General Services	0	0	1
				Librarian	1	1	0
5	5	10	P-2/P-1	Associate Secretary	0	0	1
				Judiciary Secretaries/Researchers	1	1	5
				Associate Librarian	0	0	1
				Associate Administrative/Budget Officer	1	1	1
				Head of Office Secretarial Services	1	1	1
				Head of Printing	1	1	1
				Associate Archives Officer	1	1	0
29	35	45	GS	Principal level	4	5	8
				Other levels	23	28	35
				Security Officers	2	2	2
49	56	78		TOTAL	49	56	78

/...

Annex III

SUMMARY OF RECURRENT FINANCIAL IMPLICATIONS

	Annual costs (Thousands of United States dollars)		
Objects of expenditure	Scheme A a/	Scheme B b/	Scheme C c/
Established posts	2 108.2	2 365.9	3 362.7
Temporary assistance for meetings	260.0	190.0	260.0
General temporary assistance	85.5	81.3	78.0
Overtime	40.0	35.0	24.0
Temporary posts	413.8	413.8	566.2
Common staff costs	767.7	1 168.1	1 625.5
Representation allowances	3.6	3.6	3.6
Official travel of staff	60.5	49.5	42.0
External printing and binding	210.0	210.0	210.0
Annual and special allowances of members	955.0	1 133.5	1 574.5
Rental and maintenance of premises d/	(200.0)	(200.0)	(200.0)
Rental and maintenance of equipment	30.2	35.1	48.0
Communications	56.5	65.8	90.0
Hospitality	3.5	3.7	5.0
Miscellaneous services	2.5	2.9	4.0
Supplies and materials	78.5	91.4	125.0
Furniture and equipment	31.4	36.5	50.0
TOTAL	5 106.9	5 956.1	8 068.5

Note: Data on costs of established posts, common staff costs, and representation allowance applicable for 1991 are based on the United Nations "Standard Costs Version 22/90" of May 1989, the latest published version available at the present time. In the absence of data applicable to United Nations staff at Hamburg, the data on The Hague duty station is used in the table.

a/ Two members present at Seat, 19 members hold themselves available.

b/ Five members present at Seat, 16 members hold themselves available.

c/ Eleven members present at Seat, 10 members hold themselves available.

d/ Not included in total. In the event that no rental is involved, maintenance costs may be required.

/...

LOS/PCN/SCN.4/WP.8/Add.2/Corr.1
14 March 1991

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Special Commission 4
Ninth session
Kingston, Jamaica
25 February-22 March 1991

ADMINISTRATIVE ARRANGEMENTS, STRUCTURE AND FINANCIAL IMPLICATIONS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Addendum)

(A scheme to phase in the establishment of the International Tribunal for the Law of the Sea)

(Prepared by the Secretariat)

Corrigendum

Replace page 9, Annex I, (Scheme B) Organizational Chart of the Registry of the Tribunal, by the attached chart

/...

Annex I

(Scheme B)

ORGANIZATIONAL CHART OF THE REGISTRY OF THE TRIBUNAL

(Scheme B)

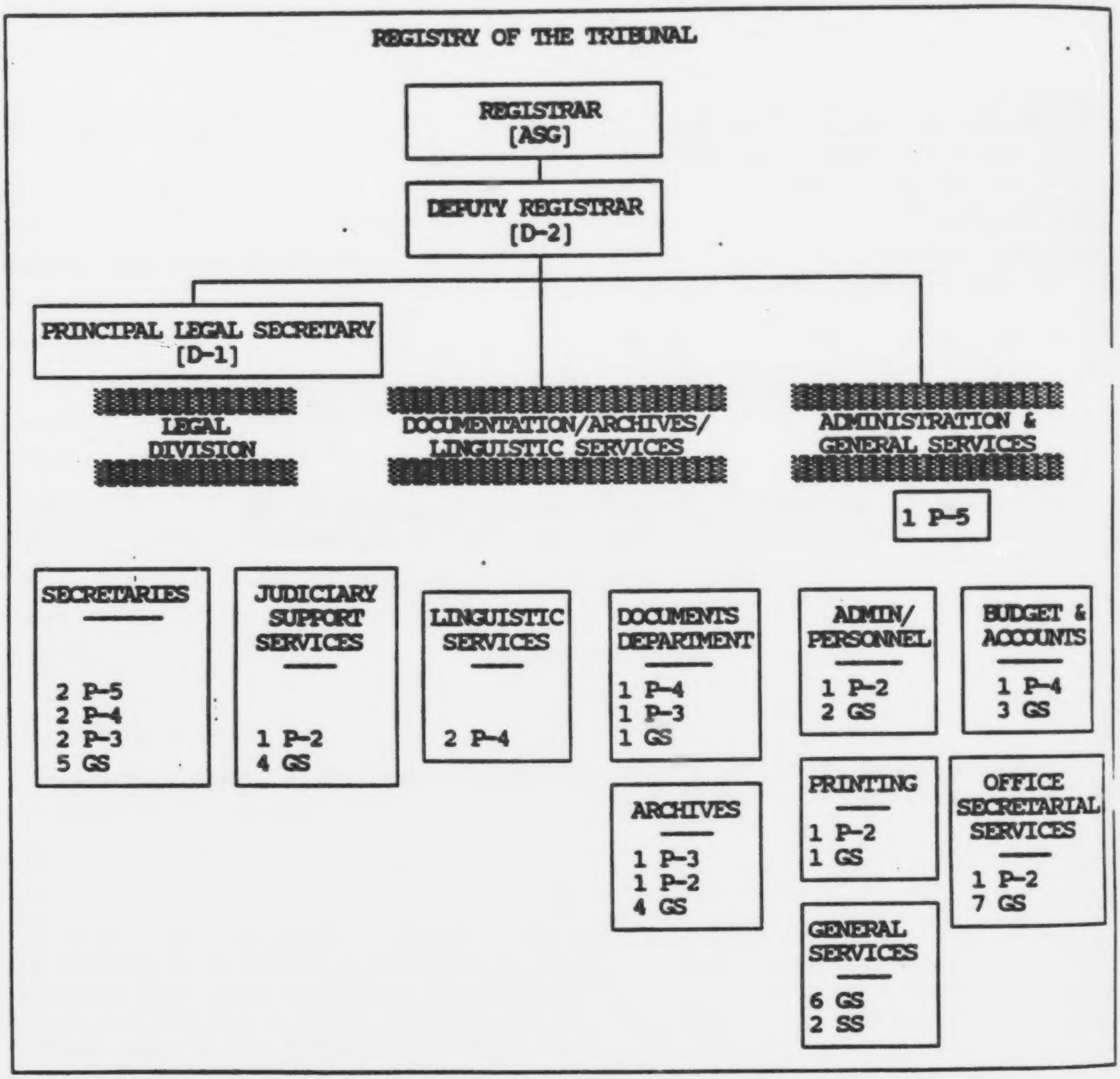
REGISTRY OF THE TRIBUNAL
REGISTRAR
[ASG]
DEPUTY REGISTRAR
[D-2]
PRINCIPAL LEGAL SECRETARY
[D-1]
LEGAL DIVISION
DOCUMENTATION/ARCHIVES/ LINGUISTIC SERVICES
ADMINISTRATION & GENERAL SERVICES
1 P-5
SECRETARIES
2 P-5
2 P-4
2 P-3
5 GS
JUDICIARY SUPPORT SERVICES
1 P-2
4 GS
LINGUISTIC SERVICES
2 P-4
DOCUMENTS DEPARTMENT
1 P-4
1 P-3
1 GS
ARCHIVES
1 P-3
1 P-2
4 GS
ADMIN/ PERSONNEL
1 P-2
2 GS
BUDGET & ACCOUNTS
1 P-4
3 GS
PRINTING
1 P-2
1 GS
OFFICE SECRETARIAL SERVICES
1 P-2
7 GS
GENERAL SERVICES
6 GS
2 SS

Table 1. Post Requirements

ASG	D-2	D-1	P-5	P-4	P-3	P-2/P-1	GS		TOTAL
							Princ. Level	Other Level	
1	1	1	3	6	4	5	5	30	56

/...

LOS/PCN/SCN.4/WP.9
16 March 1990

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
Eighth session
Kingston, Jamaica
5-30 March 1990

RELATIONSHIP ARRANGEMENTS BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Draft Agreement on Co-operation and Relationships between the United Nations and the International Tribunal for the Law of the Sea)

(Prepared by the Secretariat)

(Introductory note)

There are a number of matters that have to be considered under the item Relationship Arrangements between the United Nations and the International Tribunal for the Law of the Sea.

This document contains the Draft Agreement on Co-operation and Relationship between the United Nations and the International Tribunal for the Law of the Sea.

The arrangements regarding the United Nations common system of salaries and benefits and participation in the United Nations Joint Pension Fund is contained in an addendum.

/...

CONTENTS

Page

Preamble 301

Article 1. Principles and mutual recognition 302

Article 2. Recommendations and resolutions of the United Nations 302

Article 3. Co-operation and co-ordination 303

Article 4. Relations with the International Court of Justice 303

Article 5. Assistance to the Security Council 303

Article 6. Reciprocal representation 304

Article 7. Exchange of information and documents 304

Article 8. Reports to the United Nations 305

Article 9. Personnel arrangements 306

Article 10. Agenda items 306

Article 11. Statistical services 307

Article 12. Relations with other agencies within the United Nations system 307

Article 13. Administrative co-operation 307

Article 14. Laissez-passer 308

Article 15. Budgetary and financial arrangements 308

Article 16. Financing of special services 309

Article 17. Liaison 310

Article 18. Implementation of the agreement 310

Article 19. Revision/amendment 310

Article 20. Entry into force 310

/...

DRAFT AGREEMENT ON CO-OPERATION AND RELATIONSHIPS BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA**

Preamble

The United Nations and The International Tribunal for the Law of the Sea,

Desiring to make provision for an effective system of relationship whereby the discharge of their respective responsibilities may be facilitated, 1/

Bearing in mind that the General Assembly of the United Nations in its resolution 3067 (XXVIII) of 16 November 1973 decided inter alia to convene the Third United Nations Conference on the Law of the Sea for the adoption of a convention dealing with all matters relating to the law of the sea; and that the Conference adopted the 1982 United Nations Convention on the Law of the Sea, hereinafter referred to as the Convention, which inter alia established the International Tribunal for the Law of the Sea,

Bearing in mind also that article 287, paragraph 1 (a) of the Convention and annex VI thereto established the International Tribunal for the Law of the Sea with a central role in the settlement of disputes thereunder, 2/

Bearing in mind further that the International Tribunal for the Law of the Sea in the conduct of its activities in accordance with the provisions and principles of the Convention and of the Charter of the United Nations is primarily to promote peace and international justice while furthering the objectives of the United Nations and of the International Tribunal for the Law of the Sea,

Noting the role of the United Nations and of the Secretary-General under Articles 2 and 33 of the Charter in the peaceful settlement of international disputes, particularly the role of the organs of the United Nations, including the Security Council and the International Court of Justice, in the maintenance of peace and security and the settlement of disputes relating to the Law of the Sea, and also the responsibilities entrusted to the Secretary-General under article 319 and other provisions of the Convention,

Noting further the functional interrelationships established under the Convention between the United Nations, its principal organs, the competent specialized agencies and the International Tribunal for the Law of the Sea,

---

** Whenever precedent exists for the provisions of this working paper, the sources of the formulations in similar terms are identified in footnotes with abbreviated references; for example, IAEA/UN, art. 1, para. 2, refers to the Agreement between the International Atomic Energy Agency and the United Nations, article 1, paragraph 2.

Taking into account that the International Court of Justice and the International Tribunal for the Law of the Sea are forums for the resolution of disputes under the Convention, and for this purpose, the provisions of the Charter of the United Nations, of the Convention on the Law of the Sea and of the Statute of the International Tribunal for the Law of the Sea, annex VI thereto, 3/

Have agreed as follows:

Article 1

Principles and mutual recognition

1. The United Nations recognizes that the International Tribunal for the Law of the Sea (hereinafter referred to as the International Tribunal), by virtue of its intergovernmental character and international responsibilities, will function under the Convention and its Statute as an autonomous international organization in the relationship with the United Nations established by this Agreement. 4/

2. The International Tribunal recognizes the responsibilities of the United Nations in accordance with the Charter in the fields of international peace and security and the resolution of international disputes. 5/

3. The United Nations recognizes the International Tribunal as being responsible for taking such action as may be appropriate under its Statute for the accomplishment of the purposes set forth therein, with due regard to the competence and responsibilities of the United Nations and its organs and of the agencies within the United Nations system. 6/

Article 2

Recommendations and resolutions of the United Nations

The International Tribunal, having regard to the obligations of the United Nations to promote the objectives set forth in Chapter I, Article 2, and Chapter VI of the Charter of the United Nations, agrees to arrange for the submission as soon as possible to its Members and to meetings of States Parties to the Convention, as appropriate, of all formal recommendations and resolutions that the United Nations may make or adopt, and in due course to report to the United Nations on any action taken by it or by States Parties in order to give effect to such recommendations or resolutions or on the other results of their consideration. 7/

/...

Article 3

Co-operation and co-ordination

1. The United Nations and the International Tribunal for the Law of the Sea agree that, with a view to facilitating the effective attainment of the objectives set forth in their respective constitutions within the general framework established by the Charter of the United Nations and by the Convention on the Law of the Sea, they will act in close co-operation with each other and will consult each other regularly in regard to matters of common interest. 8/

2. The United Nations and the International Tribunal recognize the desirability of achieving effective co-ordination of the activities of the International Tribunal, other than those of a judicial character or those related thereto, with those of the United Nations and the specialized agencies, and of avoiding of overlapping and duplication of activities. 9/

Article 4

Relations with the International Court of Justice

1. The International Tribunal agrees to furnish any information which may be requested by the International Court of Justice in pursuance of Article 34, paragraph 2, of the Statute of the Court and the United Nations agrees to furnish any information requested of it or of the International Court of Justice by the International Tribunal in pursuance of article 79 of the Rules of the International Tribunal. 10/

2. The International Tribunal and the United Nations shall ensure the prompt and regular exchange of information concerning applications submitted in accordance with article 292 of the Convention to either the International Court of Justice or the International Tribunal.

Article 5

Assistance to the Security Council

1. The International Tribunal for the Law of the Sea agrees to co-operate with the United Nations in furnishing such information and rendering such assistance to the Security Council as it may request, including assistance in carrying out decisions of the Security Council for the maintenance and restoration of international peace and security. 11/

2. The Security Council of the United Nations may submit written statements to the International Tribunal for distribution by the Registry to all Members. In the event that such statements relate to the consideration of any application or request submitted to the International Tribunal or dispute

under consideration by it, such statements may only be submitted with the consent of the parties to the dispute and shall be confined to whether or not the Security Council has the dispute in question on its agenda, or calls upon the parties to settle it by the means provided for in the Convention, as provided in article 298, paragraph 1 (c).

Article 6

Reciprocal representation

1. The Secretary-General of the United Nations shall be entitled to attend and participate without vote in meetings of the Members of the International Tribunal and of its chambers on matters of common interest, other than those related to the judicial functions of the International Tribunal. The Secretary-General shall also be invited as appropriate to attend and participate without vote in such other meetings as the International Tribunal may convene at which matters of interest to the United Nations are under consideration. The Secretary-General may, for the purposes of this paragraph, designate any person as his representative.

2. The President of the International Tribunal shall be entitled to attend plenary meetings of the General Assembly of the United Nations for the purposes of consultation. He shall be entitled to attend and participate without vote in meetings of the Main Committees of the General Assembly, and meetings of the Economic and Social Council, the Trusteeship Council and, as appropriate, their subsidiary bodies. At the invitation of the Security Council, the President may attend its meetings, supply it with information or give it other assistance with regard to matters within the competence of the International Tribunal. The President may, for the purposes of this paragraph, designate any person as his representative.

3. Written statements submitted by the United Nations to the International Tribunal for distribution shall be distributed by the Registry to all Members of the International Tribunal. Written statements submitted by the International Tribunal to the United Nations for distribution shall be distributed by the Secretariat of the United Nations to all members of the appropriate organ or organs of the United Nations. 12/

Article 7

Exchange of information and documents

1. The United Nations and the International Tribunal shall, to the fullest extent practicable, and subject to paragraphs 2 and 3, arrange for the current exchange of information and publications of mutual interests, and the furnishing of special reports and studies upon request. 13/

/...

2. The United Nations and the International Tribunal shall be subject to certain necessary limitations for the safeguarding of certain confidential information and proprietary material furnished to them, and nothing in this Agreement shall be construed to require either of them to furnish any information the furnishing of which would, in its judgement, constitute a violation of the confidentiality of such information or materials. 14/

3. The International Tribunal shall:

(a) Periodically transmit to the United Nations information which may constitute developments relating to the Convention, including information regarding the jurisprudence of the International Tribunal; and

(b) Transmit to the United Nations information and documentation relating to the pleadings, oral proceedings, judgements, orders, advisory opinions, and other communications and documentation relating to applications in accordance with articles 290 and 292 of the Convention, including information concerning applications submitted to the International Tribunal for the purposes of the International Court of Justice, as referred to in article 4, paragraph 2, of this Agreement.

4. The United Nations shall transmit to the International Tribunal:

(a) Periodically, information concerning developments relating to the Convention;

(b) Information and communications received by it pursuant to the designation of the Secretary-General as the depositary of the Convention; 15/ and

(c) Information concerning applications submitted to the International Tribunal under article 292 of the Convention, as referred to in article 4, paragraph 2, of this Agreement.

Article 8

Reports to the United Nations

The International Tribunal shall, when appropriate, keep the United Nations informed of its activities by submitting special reports:

(a) To regular sessions of the General Assembly;

(b) When appropriate, to the Security Council and notifying the Council whenever, in connection with the activities of the International Tribunal, questions within the competence of the Security Council arise; and

(c) To other organs of the United Nations on matters within their respective competence, in particular to the Legal Committee of the General Assembly or other organs dealing with matters with respect to which the International Tribunal exercises its contentious jurisdiction. 16/

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Article 9

Personnel arrangements 17/

1. The United Nations and the International Tribunal recognize that the eventual development of a single unified international civil service is desirable from the standpoint of effective administrative co-ordination and, with this end in view, agree to develop common personnel standards, methods and arrangements designed to avoid serious discrepancies in terms and conditions of employment, to avoid competition in recruitment of personnel, and to facilitate interchange of personnel in order to obtain the maximum benefit from their services.

2. The United Nations and the International Tribunal agree to co-operate to the fullest extent possible in achieving these ends and in particular they agree to:

(a) Participate in the International Civil Service Commission established for the purpose of contributing to the improvement of recruitment and related phases of personnel administration in all of the international organizations;

(b) Consult together concerning other matters relating to the employment of their officers and staff, including conditions of service, duration of appointments, classification, salary scales and allowances, retirement and pension rights and staff regulations and rules with a view to securing as much uniformity in these matters as shall be found practicable;

(c) Co-operate in the interchange of personnel, when desirable, on a temporary or permanent basis, making due provision for the retention of seniority and pension rights;

(d) Co-operate in the establishment and operation of suitable machinery for the settlement of disputes arising in connection with the employment of personnel and related matters. 18/

Article 10

Agenda items

The International Tribunal may propose items for the consideration by the United Nations. In such cases, the International Tribunal shall notify the Secretary-General of the United Nations of the item or items concerned and the Secretary-General, in accordance with his authority, shall bring such item or items to the attention of the General Assembly and the Security Council, as appropriate. 19/

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Article 11

Statistical services

1. The United Nations and the International Tribunal agree to strive for maximum co-operation, the elimination of all undesirable duplication between them and the most efficient use of their technical personnel in their respective collection, analysis, publication and dissemination of statistical information. They agree to combine their efforts to secure the greatest possible usefulness and utilization of statistical information and to minimize the burdens placed upon national Governments and other organizations from which such information may be collected.

2. The International Tribunal recognizes the United Nations as the central agency for the collection, analysis, publication, standardization and improvement of statistics serving the general purposes of international organizations.

3. The United Nations recognizes the International Tribunal as the appropriate agency for the collection, analysis, publication, standardization and improvement of statistics within its special sphere, without prejudice to the right of the United Nations to concern itself with such statistics so far as they may be essential for its own purposes or for the improvement of statistics throughout the world.

4. In order to build up a central collection of statistical information for general use, it is agreed that data supplied to the International Tribunal for incorporation in its basic statistical series or special reports should, so far as practicable, be made available to the United Nations on request. 20/

Article 12

Relations with other agencies within the United Nations system

The International Tribunal shall inform the United Nations and its Economic and Social Council of matters of inter-agency concern within its competence, and of any formal agreement on such matters to be concluded between the International Tribunal and another agency within the United Nations system. 21/

Article 13

Administrative co-operation

1. The United Nations and the International Tribunal recognize the desirability of co-operation in administrative matters of mutual interest.

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2. Accordingly, the United Nations and the International Tribunal undertake to consult together, and with other agencies concerned within the United Nations system, from time to time concerning these matters, particularly the most efficient and harmonized use of facilities, staff and services and appropriate methods of avoiding the establishment and operation of competitive or overlapping facilities and services with a view to securing as much uniformity in these matters as possible.

3. The consultations referred to in this article shall be utilized to establish the most equitable manner in which any special services or assistance furnished, on request, by the International Tribunal to the United Nations or by the United Nations to the International Tribunal shall be financed.

4. The consultations referred to in this article shall also explore the possibility of continuing or establishing common facilities or services in specific areas, including the possibility of one organization providing such facilities or services to one or several other organizations, and establish the most equitable manner in which such facilities or services shall be financed. 22/

Article 14

Laissez-passer

Members of the International Tribunal, the Registrar and other officials of the International Tribunal and the Registry shall be entitled, in accordance with such special arrangements as may be concluded between the Secretary-General of the United Nations and the Registrar of the International Tribunal, to use the laissez-passer of the United Nations. 23/

Article 15

Budgetary and financial arrangements

1. The International Tribunal recognizes the desirability of establishing close budgetary and financial relationships with the United Nations in order that the administrative operations of the United Nations, the International Tribunal and the specialized agencies shall be carried out in the most efficient and economical manner possible, and that the maximum measure of co-ordination and uniformity with respect to these operations shall be secured. 24/

2. The United Nations and the International Tribunal agree to co-operate to the fullest extent possible in achieving these ends. 25/

3. The International Tribunal agrees to conform, as far as may be practicable and appropriate, to standard practices and forms recommended by the United Nations. 26/

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4. The following arrangements shall govern budgetary and financial relationships between the United Nations and the International Tribunal:

(a) In the preparation of the budget of the International Tribunal, the Registrar of the International Tribunal shall consult with the Secretary-General of the United Nations with a view to achieving, in so far as practicable, uniformity in presentation of the budget with those of the United Nations and of the specialized agencies for the purpose of providing a basis for comparison of the several budgets;

(b) The International Tribunal agrees to transmit its budget or budgetary estimates to the United Nations by 1 July of the preceding year or such other date as may be agreed upon by the United Nations and the International Tribunal. The General Assembly shall examine the budget or budgetary estimates of the International Tribunal and may make recommendations as it may consider necessary;

(c) Representatives of the International Tribunal shall be entitled to participate, without a vote, in the deliberations of the General Assembly or any committee thereof or established by it at all times when the budget of the International Tribunal or general administrative or financial questions affecting the International Tribunal are under consideration;

(d) The United Nations may undertake the collection of contributions from States Parties to the Convention which are also Members of the United Nations in accordance with such arrangements as may be defined by a later agreement between the United Nations and the International Tribunal;

(e) The United Nations shall, upon its own initiative or upon the request of the International Tribunal, arrange for studies to be undertaken concerning other financial and fiscal questions of interest to the International Tribunal and to the specialized agencies with a view to the provision of common services and the securing of uniformity in such matters. 27/

Article 16

Financing of special services

1. In the event of either the International Tribunal or the United Nations being faced with the necessity of incurring substantial extra expense as a result of any request which the other party to the Agreement may make for special reports, studies or assistance in accordance with articles 5 and 7 or with other provisions of this Agreement, consultation shall take place with a view to determining the most equitable manner in which such expense shall be borne.

2. Consultation between the United Nations and the International Tribunal shall similarly take place with a view to making such arrangements as may be found equitable for covering the costs of central administrative, technical or fiscal services or facilities or other special assistance provided by the United Nations. 28/

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Article 17

Liaison

1. The United Nations and the International Tribunal agree to the foregoing provisions in the belief that they will contribute to the maintenance of effective liaison between the two organizations. They affirm their intention of taking in agreement whatever measures may be necessary to this end.

2. The liaison arrangements provided for in this agreement shall apply, as far as is appropriate, to the relations between the International Tribunal and the United Nations, including its offices away from Headquarters and regional offices. 29/

Article 18

Implementation of the Agreement

The Secretary-General and the Registrar may enter into such supplementary arrangements for the implementation of this Agreement as may be found desirable in the light of the operating experience of the Organization and the International Tribunal. 30/

Article 19

Revision/amendment

This Agreement shall be subject to revision by agreement between the United Nations and the International Tribunal, and shall be reviewed not later than three years after the Agreement has come into force. 31/

Article 20

Entry into force

This Agreement shall come into force on its approval by the General Assembly of the United Nations and the Meeting of States Parties to the Convention. 32/

Notes

1/ Similar to IAEA/UN, preambular paragraph 1.

2/ Similar to IAEA/UN, Protocol, paragraph 5, and WTO/UN, General Assembly resolution 32/57, paragraph 5.

3/ Several of the preambular paragraphs above could be incorporated in the resolution of the General Assembly that approves the relationship agreement. In such event, the preambular paragraphs could be confined to essential references to such a General Assembly resolution. See also in this connection LOS/PCN/SCN.4/WP.7, p. 1, footnote (a).

4/ Similar to IAEA/UN, art. I, para. 2.

5/ Similar to IAEA/UN, art. I, para. 3.

6/ Similar to WTO/UN, art. I, para. 1.

7/ Similar to WTO/UN, art. II.

8/ Similar to ILO/UN, WHO/UN, art. 1.

9/ Similar to IAEA/UN, art. XI.

10/ No provision exists in the Statute of the International Tribunal for such requests. Provision, however, has been made in Article 79 of the draft Rules of the International Tribunal (document LOS/PCN/SCN.4/WP.2/Rev.1/Part I).

11/ Similar to ICAO/UN, art. VII.

12/ Similar to IAEA/UN, art. VII.

13/ Similar to IBRD/UN, art. 5.

14/ Similar to IBRD/UN, art. 1, para. 3.

15/ In particular, this would relate to information regarding the establishment of baselines and limits of maritime zones by States Parties, declarations submitted in accordance with articles 287 and 298 of the Convention or notices of revocations thereof, and declarations, notifications and communications submitted by international organizations referred to in article 305, paragraph 1 (f) of the Convention, or of their Member States in accordance with articles 5, 7 and 8 of annex IX thereto.

16/ Similar to IAEA/UN, art. III.

17/ See also LOS/PCN/SCN.4/WP.9/Add.1.

18/ Similar to IMO/UN, art. X, IDA, art. X.

/...

19/ Similar to IAEA/UN, art. VIII.

20/ Similar to IDA/UN, art. XI, paras. 1, 2, 3 and 6.

21/ Similar to UNIDO/UN, art. 13.

22/ Similar to UNIDO/UN, art. 14.

23/ Similar to WIPO/UN, art. 17.

24/ Similar to IAEA/UN, art. XVI, para. 1.

25/ Similar to IDA/UN, art. XIII, para. 2.

26/ Similar to IAEA/UN, art. XVI, para. 2.

27/ Similar to IDA/UN, art. XIII, para. 3, subparas. (a)-(e).

28/ Similar to UNESCO/UN, art. XVII, paras. 1 and 2.

29/ Similar to UPU/UN, art. XIII, paras. 1 and 2.

30/ Similar to UNESCO/UN, art. XX.

31/ Similar to UNESCO/UN, art. XXI.

32/ Similar to UNESCO/UN, art. XXII.

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LOS/PCN/SCN.4/WP.9/Add.1
16 March 1990

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
Eighth session
Kingston, Jamaica
5-30 March 1990

RELATIONSHIP ARRANGEMENTS BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Arrangements regarding the United Nations common system of salaries and benefits, and participation in the United Nations Joint Staff Pension Fund)

(Prepared by the Secretariat)

Addendum

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CONTENTS

Page

Introduction 315

1. United Nations common system of salaries, allowances and benefits .. 315

2. The United Nations Joint Staff Pension Fund 317

3. Participation of an international organization in the work of the International Civil Service Commission (ICSC) and participation by its staff in the United Nations Joint Staff Pension Fund (UNJSPF) .. 318

ARRANGEMENTS REGARDING THE UNITED NATIONS COMMON SYSTEM OF SALARIES, BENEFITS AND PARTICIPATION IN THE UNITED NATIONS JOINT STAFF PENSION FUND

Introduction

1. A common system of salaries, allowances and benefits is used by the United Nations, most of the specialized agencies which have entered into a relationship with the United Nations, the International Atomic Energy Agency and a number of other international organizations. The system applies to over 51,000 staff members serving at some 600 duty stations.

2. The International Civil Service Commission (ICSC) was established by the General Assembly of the United Nations in 1974 to regulate and co-ordinate the conditions of service of the United Nations common system. The Commission consists of 15 members appointed by the General Assembly in their personal capacity. Members are selected, with due regard to geographical distribution, from among individuals with substantial experience of executive responsibility in public administration or related functions. The Chairman and Vice-Chairman serve on a full-time basis. The Commission is assisted by a full-time secretariat specializing in remuneration, statistical and personnel policy questions.

1. United Nations common system of salaries, allowances and benefits

(a) The Professional and higher categories

(i) Salary system

3. Staff in the Professional and higher categories are recruited internationally and are paid on the basis of common salary scales applied world-wide and established by the United Nations General Assembly on the recommendation of ICSC. This common salary system is, in turn, based on a common job classification structure developed by ICSC. The job classification standards have a three-tiered structure. The Master Standard is based on a point-factor system and is used by organizations to grade posts within the Professional and higher categories. The classification standard allows for a common interpretation of the various grade levels, based on job content, and is the most general of the three tiers. Six factors are taken into account when grading a job: professional knowledge, difficulty of work, independence of work, work relationships, supervisory responsibilities and impact of work. It also provides a framework for a job design and human resources planning. The second group consists of separate descriptive standards for major occupations. These are narrative standards, giving examples of typical duties at each level and indicating how the Master Standard would be applied. These occupational

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standards are of assistance in making meaningful distinctions between levels of work within an organization, as well as in assigning proper grade levels to similar functions in different organizations. The third group of standards is the most specific in that it covers jobs at a given grade level in a single field of work within one organization only.

4. The salary of staff in the Professional and higher categories is made up of two main elements: base salary and post adjustment, both of which are expressed in United States dollars. Post adjustment is a cost-of-living adjustment designed to preserve equivalent purchasing power for all duty stations. Post adjustment may be added to, or subtracted from, base salary. The base salary and post adjustment are interdependent.

(ii) Level of salaries

5. The level of salaries for staff in the Professional and higher categories is determined on the basis of the Noblemaire principle, named after the Chairman of the Committee of the League of Nations. The principle derived from the Noblemaire Committee's proposals governing international civil service pay rates in the League of Nations and became the cornerstone of the United Nations salary system for Professional staff. The continued validity of the principle for pay-setting purposes was most recently confirmed by ICSC in the following terms:

> "In line with the principle of 'equal pay for equal work', no distinction ... [can] be admitted in the remuneration of internationally recruited staff on the grounds of their nationality or of salary levels in their own countries. Since the organizations must be able to recruit and retain staff from all of the member States, the level of remuneration must be sufficient to attract those from the countries where salary levels are highest ...". 1/

In applying the Noblemaire principle, the Commission makes a comparison with the national civil service of the member State which has the highest pay levels and which by its size and structure also lends itself to a significant comparison.

(iii) Post adjustment

6. Post adjustment is designed to ensure that, regardless of the duty station, the salaries of Professional staff have the same purchasing power in terms of United States dollars. It is a cost-of-living differential added to or subtracted from, net base salary. Additions to base salary are made when the cost of living in dollar terms is higher than the level determined to be 100; conversely, deductions from base salary are made when the cost of living in dollar terms is found to be lower than the base.

(b) The General Service and other locally recruited categories

(i) Salary system

7. Staff in the General Service and related categories are recruited and paid on a local basis. The General Service category covers such functions as messengers, clerks, typists, secretaries and administrative support staff. A number of other specialized and technical personnel, such as those engaged in printing, building maintenance and security work or employed as laboratory technicians, may be included in the General Service category; in some duty stations, there are one or more separate locally recruited categories for such staff. The term General Service category normally includes all of the above groups of staff, as their salaries and benefits are determined in a similar manner.

8. Job classification standards have ben developed for the General Service and related categories as a tool to differentiate between various levels of responsibility, bearing in mind the management needs of the organizations. Such standards provide an optimal framework for salary comparison with the external market. There is no single global standard. Different standards exist for each headquarters city, either in the form of a common standard applied by all organizations with staff in the locality, or as separate organizational standards which have been found to result in similar gradings.

9. It is the policy of the organizations to recruit General Service personnel locally. However, there may be certain skills, e.g., knowledge of a required language, that can be found only outside the local area. A staff member recruited from outside the area of the duty station who is a national of another country may be granted non-local status and thereby become eligible for appropriate international benefits.

(ii) Level of salaries

10. Unlike staff in the Professional and higher categories, staff in the General Service category are not paid on the basis of a single global salary scale. For the most part, such staff serve at the same duty station throughout their career. An underlying concept of the common system is that they should be compensated in accordance with the best prevailing conditions of service in the locality.

2. The United Nations Joint Staff Pension Fund

11. The United Nations Joint Staff Pension Fund (UNJSPF) provides retirement, disability and survivors' benefits for the staff of those organizations that are members of the Fund.

12. A staff member who has an appointment of six months or more or who completes six months of service without an interruption of more than 30 days becomes a participant in the Fund. A world-wide scale of pensionable

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remuneration applies to staff in the Professional and higher categories. This scale is used both for the determination of contributions to the Fund and for the calculation of benefits.

13. The current rate of contribution to the Fund is 21.75 per cent of pensionable remuneration. With two thirds of the contribution paid by the organization and one third by the staff member. General Service staff members are participants in UNJSPF on the same conditions and subject to the same regulations as the Professional staff.

3. Participation of an international organization in the work of the International Civil Service Commission (ICSC) and participation by its staff in the United Nations Joint Staff Pension Fund (UNJSPF)

14. For a new international organization, such as the International Tribunal for the Law of the Sea, to participate in the work of the International Civil Service Commission will require a recommendation of the legislative body of the new international organization that it should become a part of the United Nations common system. Based on such a recommendation, there would be two options for the association with the common system. These are:

(a) That the new organization does not wish at the outset to accept the ICSC Statute, but that it wishes to be a part of the common system regarding salaries and benefits. In this case, it should also abide by the decisions of ICSC in this connection;

(b) That the new organization can accept the ICSC Statute and adopt its salaries and benefits scheme. In that event, it could send a representative to ICSC meetings. In the normal course, such an organization could also have an input to ICSC which is co-ordinated through the United Nations inter-agency Consultative Committee on Administrative Questions (CCAQ).

15. Even in the absence of a direct relationship with the United Nations system, a new international organization could apply the United Nations staff rules and regulations or compatible rules and regulations to its own staff. On that basis, the Organization could seek to join the United Nations Joint Staff Pension Fund (UNJSPF). As long as the staff rules and regulations of the new organization are in line with the United Nations staff rules, there would be no impediment to joining the Joint Pension Fund.

16. The review carried out for this purpose includes review of the compatibility of the new organization's staff rules with those of the United Nations system. The criteria applied are that those rules which have implications for the pension benefits and for the pension fund should not be unduly favourable. The staff rules should not give the staff of the new organization advantages in that connection that would be better than those enjoyed by staff of other organizations which participate in the Fund. For instance, promotions should be graduated on a similar basis. There should be no possibility of sudden elevation of salary levels resulting from promotions or the elevation of several steps in increments which are substantially different to those of the system. The salary structure should also be

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consistent. For instance, an arrangement whereby the salary or pensionable remuneration includes the post adjustment would not be acceptable, since this could give undue benefits in pension terms.

17. An organization established without a relationship to the United Nations system could, if it has adopted the United Nations staff rules and regulations and wants to join the Joint Staff Pension Fund, apply to the Executive Secretary of ICSC. The Commission will review the staff rules and regulations to ensure that they are in line with those of the common system.

18. Once that comparison is carried out, the Executive Secretary informs the Secretary of the Pension Board of the compliance with the required practices. The application to join the Pension Fund should be made to the Secretary of the Pension Board. On the basis of the ICSC review and that of the Pension Board, a recommendation is made to the General Assembly. There needs to be General Assembly endorsement for participation in the work of ICSC and in the Pension Fund. The two are not necessarily linked: there are several organizations that have a relationship with either the Pension Board or ICSC, but not both.

19. In the review, while the compliance of the staff rules and regulations with those of the United Nations could be secured by adopting them in toto, the real concern is not the variance in the rules themselves, but only the need for consistency in salary scales, increments, promotions and other factors that could impact on higher levels of pension benefits because of a higher level of pensionable remuneration, or in the computation of pensionable remuneration, or in increases to it during the period of employment which are the result of exceptional salary level advances.

Notes

1/ Official Records of the General Assembly, Thirtieth Session, Supplement No. 30 (A/10030), para. 29).

LOS/PCN/SCN.4/WP.10
10 August 1990

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY AND
FOR THE INTERNATIONAL TRIBUNAL FOR
THE LAW OF THE SEA
Special Commission 4
New York, 13-31 August 1990

PRINCIPLES GOVERNING A RELATIONSHIP ARRANGEMENT BETWEEN THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA AND THE INTERNATIONAL SEA-BED AUTHORITY

(Prepared by the Secretariat)

INTRODUCTORY NOTE

1. The 1982 United Nations Convention on the Law of the Sea recognizes the need for the establishment of relationship arrangements between the International Sea-Bed Authority and international and non-governmental organizations. The primary purpose of such arrangements, that of consultation and co-operation between them, is also referred to in the Convention (art. 169). Arrangements on matters within the competence of the Authority can be entered into by the Secretary-General of the Authority, with the approval of the Council. While there is no specific requirement in the Convention that the Tribunal enter into such arrangements, the need for and the inherent competence of the Tribunal to do so, as an international judicial organ, has been recognized.

2. The principles that could be applied to a relationship agreement between the Tribunal and the Authority could best be examined in the context of existing precedents. The present working paper therefore refers to the practice concerning content and subject-matter of relevant relationship agreements. Where the areas of activity of the Tribunal and the Authority would call for interaction and where practical needs necessitate the inclusion of provisions to facilitate such interaction, the paper discusses the requirement that a relationship arrangement take account of such activities. The present paper focuses primarily on practical needs for regulating co-operation and consultation as may be found in the existing practice of relationship arrangements between international organizations.

3. The paper does not cover - and should not be considered to cover - every case in which relations need to be regulated. Nor does it consolidate similar activities which could be covered by a single broad and generalized textual formulation. In effect, the sole purpose of the paper is understood to be an identification of possible issues that may arise and which could be regulated in an appropriate relationship arrangement. It should also be noted that activities are independently entrusted to each of these organizations under the Convention. The implementation by each organization of its activities in accordance with the Convention would have to be carried out, even in the absence of a relationship arrangement that could regulate or facilitate co-operation and consultation.

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CONTENTS

		Paragraphs	Page
I.	PREAMBLE	1 - 3	323
II.	GOVERNING PRINCIPLES AND MUTUAL RECOGNITION OF RESPONSIBILITIES, RIGHTS AND OBLIGATIONS	4	323
III.	CONSULTATION, CO-OPERATION, CO-ORDINATION AND RECOMMENDATIONS	5 - 12	323
IV.	EXCHANGE OF INFORMATION AND DOCUMENTS	13 - 17	325
V.	REPORTS	18 - 19	326
VI.	ADMINISTRATIVE CO-OPERATION AND PERSONNEL ARRANGEMENTS	20 - 21	327
VII.	BUDGETARY AND FINANCIAL ARRANGEMENTS	22 - 23	327
VIII.	GENERAL	24	328

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I. PREAMBLE

1. Following the existing practice, the Preamble could contain an expression of the desire to secure effective relationships between the International Tribunal for the Law of the Sea and the International Sea-Bed Authority so as to facilitate the discharge of the responsibilities of each.

2. In this context, it could be noted in the Preamble that both organizations are established by the same constitutive instrument, namely, the United Nations Convention on the Law of the Sea.

3. It would also be relevant to note, within the preambular part, that the two organizations would each, within its sphere of activity, contribute to the objectives set out in the Preamble to the Convention.

II. GOVERNING PRINCIPLES AND MUTUAL RECOGNITION OF RESPONSIBILITIES, RIGHTS AND OBLIGATIONS

4. Notwithstanding that the Tribunal and the Authority are both created by, and have their powers defined under, the same Convention, there appears to be a need for each to recognize the character and responsibilities of the other. Declarations by the Tribunal and the Authority that each would recognize the independent character and international responsibilities of the other would need to be reiterated. The Authority would recognize the Tribunal as an international judicial organ and the scope of its responsibilities as well as the need for it to execute its functions in accordance with the Convention. This is particularly necessary since the Convention does not specifically provide for the Tribunal to enter into relationship arrangements with other international organizations, although it would have to do so as a necessary corollary to the fulfilment of its purposes.

III. CONSULTATION, CO-OPERATION, CO-ORDINATION AND RECOMMENDATIONS

5. Following the practice, the arrangements would reflect the important need for the Tribunal and the Authority to consult regularly and co-operate on matters of mutual interest. The co-operation extended by each institution to the other should extend not only to those matters on which clearly defined functions under the Convention are allocated to each of them, but should also extend to a co-operative relationship whereby each could facilitate the activities of the other.

6. Co-ordination and recommendations, on the other hand, as envisaged according to the usual practice, may not need to be regulated or even provided for in a relationship arrangement between the Tribunal and the Authority, since their activities are disparate. For instance, the Tribunal has no role in the management or regulation of the exploration and exploitation of the resources of the international sea-bed area, and the Authority and its organs have not been given a competence which touches upon the resolution of disputes. Notwithstanding the absence of the need for co-ordination and also for recommendations to be made by

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one institution to the other, for these very reasons, consultation and co-operation are essential components of a relationship arrangement, since it is by these means that the interaction can be effective.

7. Such co-operation should, for instance, extend to issues of a legal nature within the Authority. The Sea-Bed Disputes Chamber can be required to exercise its advisory jurisdiction in any case where a legal question arises within the scope of the activities of the Assembly or the Council which needs resolution (art. 191). In such a case, the request by a required majority of the membership of these organs of the Authority provides for the suspension of consideration of the issue by the organ, pending its resolution by the Sea-Bed Disputes Chamber (art. 159). The Tribunal is required in such a case to treat the request as "a matter of urgency". Clearly, this arrangement calls for prompt and ongoing consultation and co-operation between the administrative branches of these institutions, i.e., the Registry of the Tribunal and the Secretariat of the Authority. It is only by these means that it would be possible to ensure that the Sea-Bed Disputes Chamber is fully apprised of ongoing activities before the Assembly or the Council and has comprehensive information regarding the surrounding facts and circumstances relevant to the resolution of the issue that has arisen. Furthermore, the Tribunal and its Sea-Bed Disputes Chamber should be in a position to anticipate the need for the Tribunal to constitute itself to deal with such requests and to secure the presence of its members. These practical arrangements between the Tribunal and the Assembly are necessary to ensure that there is no undue delay in the Assembly obtaining an advisory opinion. The relevant provision states that:

> "If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal." (art. 159, para. 10)

8. The Legal and Technical Commission would recommend to the Council the institution of proceedings on behalf of the Authority in accordance with the Convention (art. 165, para. 2 (i)). The Council would review that recommendation and, in cases of non-compliance, would in fact institute the proceedings before the Sea-Bed Disputes Chamber on behalf of the Authority (art. 162, para. 2 (u)). Given that non-compliance could be by entities other than States and in relation to contractual obligations, the relationship arrangement between the Tribunal and the Authority would have to determine the methodology for submitting such cases. This would be another area for consultation and co-operation between the Legal and Technical Commission or the Council and the Tribunal.

9. The decisions taken by the Sea-Bed Disputes Chamber in this connection are to be implemented by the Council. The Council notifies the Assembly of the decision, together with any recommendations which the Council may find appropriate (art. 162, para. 2 (v)). Since the implementation may involve clarification of the Sea-Bed Disputes Chamber's decisions, the prospective need for co-operation and consultation exists in this case as well.

10. The same would apply when the Assembly decides to suspend the exercise of rights and privileges of members who have grossly and persistently violated the provisions of Part XI of the Convention. This is done on the recommendation of the

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Council (art. 162, para. 2 (t)). Action under this provision can only be taken after the Sea-Bed Disputes Chamber has found that a State Party has grossly and persistently violated the Convention's provisions (art. 160, para. 2 (m), and art. 185).

11. In the process of the selection of the members of the Sea-Bed Disputes Chamber from among the members of the Tribunal, the representation of the principal legal systems of the world and equitable geographic distribution shall be assured. The Assembly has the right to adopt recommendations of a general nature relating to such representation and distribution. For this purpose as well, there would appear to be a need for consultation and co-operation between the Tribunal and the Authority in ensuring that the Assembly possesses all the necessary information to adopt a recommendation which can be given effect to by the Tribunal (annex VI, art. 35, para. 2).

12. Contractual disputes may be submitted to commercial arbitration (art. 188, para. 2 (a)). Such arbitral tribunals do not have the competence to deal with matters relating to the interpretation of the Convention. If such an issue should arise, that question has to be referred to the Sea-Bed Disputes Chamber before the arbitral tribunal can continue with the case or render an award, since the interpretation of the Convention and its implications for contractual arrangements are involved. It would be necessary for the Authority to be aware of the submission of such cases to the Chamber independent of, or supplementary to, the Authority's right to notification in any case where the Sea-Bed Disputes Chamber would be dealing with the interpretation or application of the Convention. The legal requirement for such notification exists in the procedural rules of the Tribunal, but there would be instances where the Authority has an interest in the proceedings and the outcome of the case, even though such interest may not be of a legal nature but rather of a practical nature affecting its activities. The co-operation needed in this connection between the Tribunal and the Authority is for each to keep the other fully abreast of matters of interest to each of them.

IV. EXCHANGE OF INFORMATION AND DOCUMENTS

13. The Tribunal and the Authority could be expected to secure the regular exchange of current information of mutual interest. They may also consider the need for the furnishing of special reports by the Tribunal to the Authority, although the reverse situation may not be appropriate. There are situations where the exchange of information would facilitate the functioning of these organizations. There are several situations in which the interaction in the activities of the two institutions would give rise to the desirability of sharing of information.

14. The Tribunal and its Sea-Bed Disputes Chamber have competence to prescribe, modify or revoke provisional measures (art. 290). This can be invoked when a dispute has been submitted, or in certain circumstances, even if the dispute has been submitted to another forum that has to be constituted. Since any application for provisional measures implies an urgency, the prospects of such a request being made should be known to the Tribunal whenever possible, even before an application

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is submitted. The Authority, in its capacity as guardian of the régime for the international sea-bed area and the environmental implications thereof, should keep the Tribunal abreast of circumstances that may give rise to applications for provisional measures to prevent environmental damage. The Tribunal itself is required by the Convention and by its rules to give priority to such requests. Communication of information that would create an anticipation of prospective requests would facilitate the conduct of its work and its readiness to act (art. 290, para. 5).

15. The Tribunal, and particularly its Sea-Bed Disputes Chamber, would exercise jurisdiction under section V of part XI. It is the primary dispute settlement mechanism with jurisdiction over all disputes relating to the exploration and exploitation of the resources of the international sea-bed area. The range of disputes that may be submitted to the Sea-Bed Disputes Chamber extends from those disputes between States Parties inter se and disputes between States Parties and the Authority to disputes between prospective applicants for exploration and exploitation of the resources of the area. There could be disputes submitted to it concerning the refusal by the Authority of a contractor's application for exploration or exploitation, or a legal issue arising in the negotiation of the contract.

16. Bearing in mind the commercial nature of these activities and also the environmental implications of deep sea-bed mining, there would be an urgency to resolve such a dispute. The Tribunal would thus need to have available at all times the rules, regulations and procedures of the Authority which would be applicable to any dispute likely to arise between the Authority and a contractor, or regarding a prospective contractor, or between States and the Authority, or States or contractors inter se.

17. It would be in the interests of the Authority to ensure that the Tribunal be provided with such material to deal with urgent situations, including especially those which threaten the environment.

V. REPORTS

18. The question of reports being submitted by one international organization to another with which it has a relationship agreement may need consideration in the context of the Tribunal and the Authority. It is possible, for instance, that the Authority may wish to review the jurisprudence of the Tribunal and particularly the Sea-Bed Disputes Chamber to minimize the likelihood of disputes arising as a result of factors within the control of the Authority and its organs.

19. Annex VI, article 41, provides that amendments relating to Section 4 of the Tribunal's Statute dealing with the Sea-Bed Disputes Chamber can only be effected under article 314 of the Convention which contains the requirements for amendments relating to Part XI. This procedure involves the approval of the Assembly and the Council. Furthermore, article 41, paragraph 3, of Annex VI permits the Tribunal itself to propose amendments to its Statute. For this purpose, there would be a need for co-operation between the Tribunal and the Authority regarding this process. This could perhaps be achieved by the institution of a reporting process.

VI. ADMINISTRATIVE CO-OPERATION AND PERSONNEL ARRANGEMENTS

20. In the general administration and personnel management of the Registry of the Tribunal and the secretariat of the Authority, it may be considered desirable to have some measure of uniformity as regards terms and conditions of service, levels of appointment and retirement benefits for staff. This would be facilitated by co-operation. This would also be advisable in the event that both organizations seek to establish a relationship with the International Civil Service Commission and the United Nations Joint Staff Pension Fund.

21. The Convention deals with the violation by staff members of the obligations to the Authority under article 168, paragraph 3. Such cases should be submitted to a tribunal to be determined by the Authority in its rules, regulations and procedures. At the time of negotiation of the Convention, no determination was made as to whether the designated tribunal would be the International Tribunal. In the event that the International Tribunal is so identified, this would open another area for co-operation and consultation. It was certainly contemplated in the negotiations that the tribunal in question should be the International Tribunal for the Law of the Sea, but due to lack of time in the negotiating process no final determination was made. The administrative tribunals within the United Nations system would not have the competence to deal with such a case, since States Parties may not be parties to a case and may not institute proceedings, which is a requirement of the Convention. This would exclude, for instance, the United Nations Administrative Tribunal or the World Bank Administrative Tribunal. The International Court of Justice also could not deal with such a case, as it is not a tribunal of original jurisdiction on administrative matters and individuals cannot invoke its jurisdiction and cannot be parties before it.

VII. BUDGETARY AND FINANCIAL ARRANGEMENTS

22. To secure the financial efficiency of these new international organizations, they may establish close budgetary and financial relationships between themselves and with the United Nations. In addition to this general objective, there could be a specific requirement in view of the contributions to be made to the budget of the Tribunal by the Authority.

23. The Council submits the annual budget of the Authority to the Assembly for its approval (art. 162, para. 2 (r)). In doing so, it would have to act on the basis of article 19, paragraph 1, of the Statute of the Tribunal whereby the Authority would have to contribute to the costs of the Tribunal. For this purpose, the Council would have to consult with the Tribunal in order to work out how the level of the contributions would be determined and how payment would be made (see also art. 160, para. 2 (e)).

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VIII. GENERAL

24. The above-mentioned categories of relationship activity have been identified as being appropriate for an arrangement between the Tribunal and the Authority. They have been categorized only in order to attempt to relate them to the existing precedents, although the precedent may not be wholly appropriate to an institution such as the Tribunal whose functions are quite distinct from that of an independent autonomous international organization. Examples of such activities have been provided in each case, but they are indicative and do not comprise an exhaustive list. While examples have been referred to in the context of one type of activity, they may well be dealt with under other types of activity. Alternatively, since these arrangements are essentially for co-operation and consultation with exchanges of information, most of the instances cited in the present paper could be brought under a single broad definition of co-operation, consultation and exchange of information.

UNITED
NATIONS

LOS

UNITED NATIONS
CONVENTION ON THE
LAW OF THE SEA

LOS/PCN/SCN.4/WP.11
1 August 1991

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 12-30 August 1991

ISSUES CONCERNING THE INITIAL FINANCING AND BUDGET OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Prepared by the Secretariat)

CONTENTS

		Paragraphs	Page
	INTRODUCTORY NOTE	1 - 2	330
I.	GENERAL	3 - 4	330
II.	GOVERNING PRINCIPLES	5 - 7	331
III.	PROVISIONAL ARRANGEMENTS	8	334
IV.	WORKING CAPITAL FUND	9 - 10	335
V.	ALTERNATIVE SOURCES OF INITIAL FUNDING	11 - 15	335
VI.	THE PROVISIONAL FINANCIAL REGULATIONS	16	338

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INTRODUCTORY NOTE

1. The Special Commission requested the Secretariat to prepare a background paper on the initial financing of the International Tribunal for the Law of the Sea. The present paper is based on the deliberations in the Special Commission as well as the existing international practice. The existing practice indicates the variety of means by which the initial financing of newly established international institutions and bodies has been secured. It would seem appropriate in arranging for the establishment of the International Tribunal to review the existing practice, given that the prospective circumstances surrounding its initial establishment may require an interim arrangement pending a permanent arrangement. There is no known precedent for the establishment of an international judicial body of the nature of the Tribunal which is independent of an umbrella organization. This, therefore, requires an innovative approach.

2. The Secretariat has therefore attempted in the present working document to put into perspective the existing practice in the financing of a new institution in the context of the United Nations.

I. GENERAL

3. In reviewing the question of arrangements for the initial financing of the Tribunal, the most relevant precedent would appear to be the United Nations itself and the recommendations of its Preparatory Commission. The practice adopted in that case has been followed in many other instances with some degree of modification depending on the manner in which the new international institution or body was established, its field of activity and the likelihood of full membership of the institution being attained with promptitude.

4. In complying with its mandate, the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea is required to prepare a series of recommendations which will be incorporated in the report of the Preparatory Commission to the first meeting of States Parties in accordance with paragraph 10 of resolution I. The report will contain recommendations covering all practical arrangements pertaining to the establishment and operation of the International Tribunal. Amongst these recommendations, there needs to be a report on the budgetary and financial arrangements that are required. As a matter of convenience, it would be appropriate to divide the budgetary recommendations into two sections: (a) preliminary and provisional requirements for its initial establishment and

its early functioning; and (b) the permanent arrangements which will be of a long-term nature. This would be consistent with some existing precedents. 1/

II. GOVERNING PRINCIPLES

5. The governing principles to be applied for financial responsibility, fiscal restraint, rational policies and proper administration should be determined and applied to the provisional and permanent arrangements. In addition, based on the preliminary exchange of views in Special Commission 4 concerning the budgetary and financial considerations that should be taken into account in establishing the Tribunal and for its continued functioning, it would seem necessary that:

(a) The provisional arrangements should, to the extent possible, minimize the initial costs to States Parties to the Convention, taking into account that the work of the Tribunal will evolve over a number of years;

(b) The development of the Tribunal into a full scale judicial body should be phased in;

(c) The phasing in should be on the basis of the anticipated and growing workload during the initial years. 2/

6. As regards the continuing needs of a fully operational Tribunal, the factors to be taken into account should include the views expressed by Special Commission 4 while discussing the working papers on the administrative structure and finance submitted to it by the Secretariat and also the comparable factors that have guided the international practice in the establishment of new international institutions or bodies. For an active Tribunal that is fully utilised, these factors are as follows:

(a) The financial system should promote the most efficient and economical administration;

1/ In the case of the Preparatory Commission for the United Nations, the reports of the budgetary and financial arrangements were contained in two sections. They dealt with the provisional arrangements and the permanent arrangements (document PC/20, chap. IX, sect. 2, paras. 1-33).

2/ See the Chairman's summary of discussions on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/L.14); see also the working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.8); as well as that on a scheme to phase in the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.8/Add.2).

/...

(b) Financial controls should not in any way influence or affect the essential independence and impartiality of this judicial body; 3/

(c) Financial factors should not be permitted to frustrate or hinder the recourse to the Tribunal by all States, whether developed or developing, and by other entities that have access to it.

7. Besides the governing principles referred to above, several other fundamental arrangements would have to be recommended on the basis of experience and the existing practice. These include determinations that:

(a) The budget of the Tribunal should be on an annual or biennial basis; 4/

(b) The Registrar, as chief administrative officer, should formulate and present the initial biennial budget of the Tribunal to the meeting of States Parties, and thereafter as may be determined; 5/

3/ In the case of the United Nations, although it is a political body rather than a judicial body, it was nevertheless determined that its permanent financial system should be so constructed as to promote efficient and economical administration and command the confidence of Members and that financial considerations should be given full weight in the formulation of policy, but financial control ought not to be used to frustrate or hinder the execution of its functions duly agreed (document PC/20, chap. IX, sect. 2, para. 2).

4/ It is to be noted that in the case of the United Nations, the report of the Preparatory Commission recommended an annual budget (document PC/20, chap. IX, sect. 2, para. 3). However, the United Nations has subsequently adopted and approved a biennial budget on 18 December 1973 (General Assembly resolution 3199 (XXVIII)). The first biennial budget was for 1974/75.

5/ In the case of the United Nations, the report of the Preparatory Commission states *inter alia* that the Secretary-General as chief administrative officer should formulate and present the annual budget of the organisation to the General Assembly (document PC/20, chap. IX, sect. 2, para. 5).

(c) States Parties should establish or determine an appropriate review mechanism to, inter alia, examine and facilitate the approval of the budget submitted by the Registrar; 6/

(d) A determination needs to be made as to the currency in which the Tribunal will operate; 7/

(e) A determination needs to be made as to the sources of funding for the Tribunal and the manner in which the expenses would be apportioned between States Parties, the Authority and parties to proceedings before the Tribunal according to the capacity of each to pay, taking into account the established criteria and the international practice in this regard. 8/

6/ See LOS/PCN/SCN.4/L.14, pp. 4 and 5.

In the case of the Preparatory Commission of the United Nations, the report stated that "the General Assembly should appoint an advisory committee for administrative and budgetary questions to, inter alia:

(i) Examine and report on the budget submitted by the Secretary-General to the General Assembly;

(ii) Advise the General Assembly concerning any administrative and budgetary matters referred to it; and

(iii) Consider and report to the General Assembly on the auditors' reports on the accounts of the specialized agencies" (document PC/20, chap. IX, sect. 2, paras. 6-9).

Other United Nations programmes and bodies, for example the United Nations Development Programme (UNDP) and the United Nations Population Fund (UNFPA) utilize the same mechanism, viz., the United Nations the Advisory Committee on the Administrative and Budgetary Questions (ACABQ), while several United Nations agencies have their own review mechanisms.

7/ In the case of the United Nations, it was decided that since the greater part of the expenditure of the United Nations would be incurred in the State in which the Organization had its Headquarters, the currency used for the operation of the United Nations should be the currency of that State (document PC/20, chap. IX, sect. 2, para. 11).

8/ See the 1982 United Nations Convention on the Law of the Sea, annex VI, arts. 19 and 34. Article 4 of the Agreement establishing the International Fund for Agricultural Development (IFAD) states that the resources of the Fund shall consist of (i) initial contributions, (ii) additional contributions, (iii) special contributions from non-member States and from other sources, and (iv) funds derived from operations or otherwise accruing to the Fund.

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III. PROVISIONAL ARRANGEMENTS

8. Pending the review and adoption of the first budget of the Tribunal, it would appear necessary to find the means to finance the interim expenditures and to control the budget of the Tribunal. Besides adopting the first budget, some delay can be anticipated in the approval of the scale of assessments and in determining the methodology for the apportionment of the expenses between States Parties, other parties to proceedings and the International Seabed Authority. 9/ For this purpose, in the international context the existing experience has been the adoption on an interim basis of the scale of assessments in use by a pre-existing international organ. Such an arrangement would necessarily be without prejudice to the adoption of a scale of assessments, specific to the new organization. 10/

9/ In the case of the United Nations, it was recommended that the expenses of the United Nations be apportioned between Member States according to the capacity to pay, taking into account:

(i) Comparative income per head of population;

(ii) Temporary dislocation of national economies arising out of the Second World War;

(iii) The ability of Members to secure foreign currency.

Pending the voting of the first annual budget of the United Nations by the General Assembly, it was necessary to find means of meeting and controlling the interim expenditures of the Organization since the first budget was not to be approved by the General Assembly until the second part of its first meeting and also in view of the lapse of time required before contributions to the first annual budget were actually received. It was decided that the provisional period for which it would be necessary to make financial arrangements should cover the whole of the financial period up to 31 December 1946. The Preparatory Commission therefore recommended that the General Assembly, during the first part of its session, should examine and approve a provisional budget and should establish a working capital fund (document PC/20, chap. IX, para. 13).

10/ In the case of the United Nations, as a matter of convenience the scale of assessments of the Food and Agriculture Organization (FAO) was taken to determine initially the amount of the contribution of each Member to the fund of the United Nations. However, the report of the Preparatory Commission stressed that such a scale should not be considered a precedent and should be superseded as soon as the General Assembly had adopted a scale for the allocation of contributions to the first annual budget (document PC/20, chap. IX, paras. 19 and 20).

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IV. WORKING CAPITAL FUND

9. The establishment of a working capital fund may be necessary for the provisional budget of the Tribunal. The need for such a fund is foreseen in order to cover the inital period, perhaps one or two years, before the scale of assessments is approved and the assessed contributions are paid in. Such a fund should also cover incidental costs resulting from the first meeting of States Parties.

10. Given the necessity to maintain a financial reserve for the administration of the organization, it would probably be appropriate to continue the arrangement for a working capital fund, in addition to the general fund, even beyond the initial phase and the provisional budget. This has been the experience of international organizations and particularly so in the case of the United Nations. 11/

V. ALTERNATIVE SOURCES OF INITIAL FUNDING

11. The alternative approaches and solutions to the initial financing of a new international institution have been diverse and the practice is varied. Where there has been prior approval of the arrangement for apportioning expenses among the members of the new organization, and where advanced payment against the assessed contributions was required of them, these contributions have served as the source of initial funding. However, where there has been a delay in approving the manner of assessment and in securing contributions, alternative means of funding have been provided. These have included:

(a) A reimbursable or non-reimbursable loan from the parent organization;

(b) Advances against future contributions from States that are prospectively members of the new institution;

(c) Reimbursable or non-reimbursable contributions by States that have taken an initiative in establishing the organization or by host countries to new institutions.

12. In the case of the United Nations, the provisional arrangements were met by advances from Governments against future contributions. In this case, however, the Government concerned later treated those advances as

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11/ Report of the Fifth Committee to the General Assembly on budgetary and financial arrangements for the United Nations (document A/44). See also footnote 15 below.

/...

non-reimbursable loans and did not seek credit for those payments against the assessed contributions. 12/

13. In the case of the United Nations Industrial Development Organization (UNIDO), a reimbursable loan was provided by the United Nations on the basis of a schedule of payments to reimburse the United Nations. Later, the schedule was extended to permit the new organization further time to reimburse the loan. 13/

14. In the case of the United Nations University, the host country (Japan) made a very substantial contribution amounting to $100 million to the endowment fund for the establishment of the University. Other countries, foundations and individuals also contributed to this fund. As part of the agreement, it was also decided that wherever a centre was located, the host Government would be responsible for the full capital and operating costs for

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12/ In the experience of the United Nations, the contributions to the working capital fund were not credited to the assessed contributions of Member States in accordance with a subsequent decision of the General Assembly (document A/44: Budgetary and financial arrangements; reports of the Fifth Committee to the General Assembly; General Assembly resolution 14 (I)).

13/ The General Assembly of the United Nations, by its resolution 34/96 of 13 December 1979, para. 8, authorised the Secretary-General, in consultation with the Advisory Committee on Administrative and Budgetary Questions (ACABQ), to loan to the new agency, until it received sufficient contributions or advances from its members an amount not exceeding one half of the appropriations for the existing United Nations Industrial Development Organization for the last calendar year of its existence, to meet the expenses of the initial operations of the new agency for the last calendar year following that in which its General Conference was first convened, and to take the necessary budgetary measures. And by its resolution 40/253 A of 18 December 1985, the General Assembly approved a special appropriation of $US 24 million to finance a loan to UNIDO. The modalities of the loan were approved by ACABQ and repayments were to be made in accordance with a schedule that required the loan to be fully repaid by 31 December 1987.

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the centre, except that where the centre was located in a developing country, there would then be some readjustments in the requirements. 14/

15. The working capital fund for a new international institution may be made up of advances from States Parties. These advances could be reimbursable or non-reimbursable, or eventually set off against assessed contributions. 15/ There has also been a recent experience where the working capital fund was very substantially contributed to by the host country, which also provided host facilities. 16/ Another alternative in the existing experience has been the provision of a loan from the United Nations. 17/

14/ The Secretary-General stated in his report on the work of the Organization for 1973 that, in pursuance of General Assembly resolution 2951 (XXVII) of 11 December 1972, an endowment fund had been established consisting of voluntary contributions to the University. It was decided by the General Assembly on the recommendation of the founding committee that the expenses of the University would be borne from the income derived from the endowment fund, in addition to operating contributions that were received from Governments etc. Japan, being the headquarters of the University, contributed $US 100 million to the endowment fund in addition to the continuing operating costs of the University (the University periodically issues a list of contributions to the endowment fund and to the operating costs of the United Nations University). In addition, Japan provided the temporary facilities for the University free of charge. Japan, the host Government, is currently building a permanent headquarters for the University at its own expense. The host Government also provides the residence, free of cost, for the Rector of the University. In addition, Japan has indicated that it will bear the full capital and operating cost of one of the centres to be located in Japan (A/9149).

15/ In the case of the United Nations, the necessary funds for the provisional budget were foreseen to be provided out of a Working Capital Fund. This Fund was also to cover: (1) the expenditure of the Organization for the calendar year 1946; (2) the cost of the Preparatory Commission; and (3) the costs incidental to the convening of the first meeting of the General Assembly incurred prior to 31 December 1945. Since delays in the receipt of substantial contributions to the first budget were expected, the Fund was proposed to be large enough to cover the expenditure to be incurred in 1946 with a suitable margin. The Preparatory Commission report proposed that the Working Capital Fund should consist of advances which would stand to the credit of members and eventually be set off against the assessed contributions. It was also recommended that the Working Capital Fund should form an essential feature of the permanent financial arrangements of the Organization in order to ensure means for contingencies (document PC/20, sect. 2, paras. 19, 20 and 21).

16/ See footnote 14.

17/ See footnote 13.

/...

VI. THE PROVISIONAL FINANCIAL REGULATIONS

16. Another important component of the preparatory materials and recommendations emanating from the Preparatory Commission would be the presentation of draft provisional financial regulations and a report on their review. Such regulations would be expected, inter alia, to incorporate the terms of the provisional budget and of the working capital fund. [18] There is also early experience of the initial expenses being provided by the Government of a State. [19]

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[18] In the case of the Preparatory Commission for the United Nations, draft provisional financial regulations for the United Nations were also proposed in the report in which, inter alia, the terms of the provisional budget and the Working Capital Fund were laid down. There would be a short period before the Working Capital Fund could be established and the expenses of the Organization would have to be financed by some other means (document PC/20, chap. IX, sect. 2, annex).

[19] In the case of the United Nations, the report of the Preparatory Commission states that the expenses incurred by the Commission and the expenses incidental to the convening of the first meeting of the General Assembly should be met by the Government of the United Kingdom of Great Britain and Northern Ireland or, if the Commission so requested, shared by other Governments. All such advances should be deductible from the contribution of the Governments concerned to the first annual budget. The gap was to be covered by some similar arrangements (document PC/20, chap. IX, sect. 2, para. 22).

LOS/PCN/SCN.4/WP.12
13 August 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEABED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 10-21 August 1992

SUGGESTIONS OF THE LATIN AMERICAN AND CARIBBEAN GROUP REGARDING LANGUAGES OF THE TRIBUNAL FOR THE LAW OF THE SEA

(LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Adds.1 and 2)

(a) The Tribunal of the Law of the Sea will have one permanent official and working language;

(b) Any State being a principal disputant in a particular case before the Tribunal will be entitled to request, in addition, the use of another official language for that particular case, at no expense whatsoever for that State and provided that the said language is one of the other official languages of the United Nations;

(c) Provision should be made for the prompt translation of the proceedings and the decisions into the other official languages of the United Nations.

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LOS/PCN/SCN.4/WP.13
18 August 1992
ENGLISH
ORIGINAL: FRENCH

PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 10-21 August 1992

Proposal submitted by Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland concerning the languages of the International Tribunal for the Law of the Sea

(LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2)

(a) The International Tribunal for the Law of the Sea has two official languages: English and French.

(b) The judgements, orders and advisory opinions of the Tribunal are translated, in as short a time as possible, into the other official languages of the United Nations by the Registry.

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LOS/PCN/SCN.4/WP.13/Corr.1
1 September 1992
ENGLISH
ORIGINAL: FRENCH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Special Commission 4
New York, 10-21 August 1992

Proposal submitted by Austria, Belgium, Canada, Côte d'Ivoire, Czechoslovakia, France, Greece, India, Poland, Senegal, Switzerland and Tunisia concerning the languages of the International Tribunal for the Law of the Sea

(Corrigendum)

The title of document LOS/PCN/SCN.4/WP.13 should read as above.

LOS/PCN/SCN.4/WP.14
19 August 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 10-21 August 1992

Draft outline

for

REPORT OF THE PREPARATORY COMMISSION CONTAINING RECOMMENDATIONS REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Introductory Note

1. Special Commission 4, on the recommendation of its Bureau, decided at the summer meetings of the tenth session that it would take up as its first item of work:

> issues relating to the draft Report containing recommendations for submission to the Meeting of the States Parties to be convened in accordance with annex VI, article 4 of the United Nations Convention on the Law of the Sea, regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea:
>
> (i) form and content of the draft Report; and
>
> (ii) other issues.

This item had been listed as item (6) of its agenda for the session set out in LOS/PCN/L.101 at page 4. The Special Commission also decided that it would carry out a preliminary overview on the draft final Report as to "form and content".

2. The present working paper takes particular account of the most relevant precedents as to form of presentation, in particular that of the Preparatory Commission of the United Nations. The working paper provides a structural outline which takes into account the decision of the Special Commission that in the preparation of the draft Report:

(a) Working papers that have been reviewed by the Commission would be issued in final form and annexed to the Report for submission to the Meeting of States Parties with the recommendation of the Preparatory Commission; and

(b) Pending issues listed in the Progress Report (LOS/PCN/L.103) would be referred to in the Report as submissions from the Preparatory Commission without a recommendation but rather with a statement as to the status of review of each item by the Preparatory Commission.

The draft outline for the Report as presented herein lists several annexes of working papers and other documents that are to be finalized by the Secretariat on the basis of the decisions taken by the Special Commission for submission to the Meeting of States Parties. A separate list of attachments to this working paper identifies the relevant core documentation of the Special Commission considered essential to providing a faithful record of the work of the Special Commission, its deliberations and its conclusions and decisions which led to the preparation and presentation of the draft outline for the Report.

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Draft outline

for

REPORT OF THE PREPARATORY COMMISSION CONTAINING RECOMMENDATIONS REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

CONTENTS

Page

INTRODUCTION 346

CHAPTER I. JUDICIAL PROCEDURE

Section 1. Recommendations Concerning the Draft Rules of the Tribunal 347

Section 2. Composition of the Tribunal and its Chambers 348

Section 3. Official Working Languages 348

Section 4. Harmonization of Jurisprudence 349

Section 5. Internal Judicial Practice 349

Section 6. Access by States Not Parties to the Convention 349

CHAPTER II. INTERNATIONAL AGREEMENTS

Section 1. Recommendations Concerning the Draft Headquarters Agreement Between the International Tribunal for the Law of the Sea and the Federal Republic of Germany 349

Section 2. Recommendations Concerning the Draft Protocol on the Privileges and Immunities of the Tribunal 350

Section 3. Use of the United Nations Laissez-passer by the Tribunal 351

CHAPTER III. RELATIONSHIP ARRANGEMENTS

Section 1. Recommendations Concerning Relationship Arrangements Between the United Nations and the International Tribunal for the Law of the Sea 352

/...

CONTENTS (continued)

Page

Section 2. Relationship Arrangement Between the International Tribunal for the Law of the Sea and the International Seabed Authority 353

Section 3. Supplementary Arrangements Between the International Tribunal for the Law of the Sea and the International Court of Justice 353

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS

Section 1. Recommendations Concerning Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea
and
Recommendations Concerning the Scheme for the Initial Phasing-in of the Establishment of the International Tribunal for the Law of the Sea 354

Section 2. Recommendations Concerning the Draft Financial Rules and Staff Regulations 355

Section 3. Recommendations Concerning the Initial Financing and Budget of the International Tribunal for the Law of the Sea 355

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Section 1. Recommendations Concerning the Location and Site for the Headquarters of the International Tribunal for the Law of the Sea 356

Section 2. Recommendations Concerning the Building Requirements and Facilities of the International Tribunal for the Law of the Sea Provided by the Host Country 356

Section 3. Recommendations Concerning the Requirements and Facilities Necessary to Supplement those Provided by the Host Country 357

CHAPTER VI. FIRST MEETING OF STATES PARTIES

Section 1. Provisional Agenda and Rules of Procedure for the Meeting of States Parties 358

Section 2. Election of the Members of the Tribunal 359

LIST OF ANNEXES 360

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INTRODUCTION

1. This Report reflects the work of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in making practical arrangements for the establishment of the International Tribunal for the Law of the Sea. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea which contains the Statute of the Tribunal in annex VI thereto. Resolution I adopted with the Convention by the Third United Nations Conference on the Law of the Sea established the Preparatory Commission and mandated it inter alia to prepare a Report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea for submission to the Meeting of States Parties to be convened in accordance with the Statute of the Tribunal. 1/ The Preparatory Commission established at its first session, besides its Plenary and the General Committee, four Special Commissions. Special Commission 4 was charged with the preparation of the Report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea. 2/ The Preparatory Commission elected Dr. Gunter Goerner (German Democratic Republic) as Chairman of Special Comission 4 and he served from the first session in 1983 to the eighth session in 1990. 3/ On 25 February 1991 the Preparatory Commission elected Mr. Anton Bouteiko (Ukraine) to replace him. Colombia, Greece, Philippines and Sudan were elected as vice-chairmen of the Special Commission constituting, with its Chairman, the Bureau.
Dr. Theodore Chalkiopoulos (Greece), vice-chairman, acted as Chairman in the absence of the Chairman at the seventh session of the Preparatory Commission held in Kingston, 4/ at the eighth session held in New York 5/ and at the tenth session in Kingston and in New York. 6/

1/ Annex VI, article 4.

2/ See resolution I, para. 10; and LOS/PCN/27, annex.

3/ He served until the accession of the German Democratic Republic to the Federal Republic of Germany.

4/ The seventh session was held in Kingston, Jamaica, from 27 February 1989 to 23 March 1989.

5/ The resumed eighth session was held in New York from 13 to 31 August 1990.

6/ The tenth session was held in Kingston, Jamaica, from 24 February 1992 to 13 March 1992 and the Summer Meeting from 10 to 21 August 1992 in New York.

2. The Special Commission adopted its provisional agenda contained in SCN.4/1984/CRP.1 and Rev.1. 7/ Its mandate was initially elaborated in SCN.4/WP.1. When considering its work programme the Commission first decided to take up the items listed in paragraph 3 of SCN.4/WP.1, with the addition of Relationship Agreements as referred to in Part II of that working paper. The Commission also expressed the need to prepare rules for the Meeting of States Parties and recommendations for the election of members of the Tribunal. It did not consider it appropriate to prepare a comprehensive list of issues and items for its programme of work since additional items may be considered necessary as work progressed. For each session of the Preparatory Commission, the requirements for the programme of work were further elaborated as necessary and priorities established by the Special Commission on the recommendation of its Bureau and the initiative of its Chairman. The method of work was also established and the Commission dealt with the items under its work programme on that basis.

3. The Special Commission prepared the draft outline for the Report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea which was the basis for the review of the report and recommendations of the Preparatory Commission to the Meeting of States Parties as contained herein. With the adoption by the Preparatory Commission of the present Report, the final stage in the establishment of the International Tribunal for the Law of the Sea has been commenced with the preparation for the first Meeting of States Parties to the Convention prior to the inauguration of the Tribunal.

CHAPTER I. JUDICIAL PROCEDURE

Section 1. Recommendations Concerning the Draft Rules of the Tribunal

For the purpose of preparing for the International Tribunal to perform its judicial functions at the earliest possible time after entry into force of the Convention, it is desirable that the Meeting of States Parties facilitates the adoption of the rules of the Tribunal.

7/ References to documents of Special Commission 4 are abbreviated throughout this paper for convenience. It should be noted that they all require the prefix LOS/PCN for complete reference purposes. The documents of Special Commission 4 referred to herein are attached hereto and more fully identified in the List of Attachments.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Final Draft Rules of the Tribunal approved by the Commission and its Special Commission 4 contained in annex 1 should provide the basis for the adoption by the Tribunal of its rules of procedure;

The Special Commission first considered the requirements for the procedural rules of the Tribunal and examined the items listed in SCN.4/WP.1. Account was taken of SCN.4/1984/CRP.2-5 in this connection. Thereafter, the Draft Rules of the Tribunal (SCN.4/WP.2); and the Supplement to the Draft Rules of the Tribunal - on the Prompt Release of Vessels and Crews (SCN.4/WP.2/Add.1): Working Papers prepared by the Secretariat, were examined by the Special Commission, taking into account the table of concurrence of the Draft Rules of the Tribunal (SCN.4/WP.3) and the draft texts proposed for specific provisions (SCN.4/1985/CRP.6, SCN.4/1985/CRP.7 to 10 and 12 to 14, SCN.4/1986/CRP.15 to 18) as reflected in the Chairman's summaries of discussions (SCN.4/L.2 and Add.1 and Add.1/Corr.1, L.3 and Add.1, L.4 and Add.1, L.5 and Add.1).

Thereafter the Special Commission considered the revision of the Draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) prepared by the Secretariat, taking into account the draft texts proposed for specific provisions (SCN.4/1986/CRP.20, SCN.4/1987/CRP.22, SCN.4/1988/23 and Rev.1, 25, 28 to 30, SCN.4/1989/32 and 37), as reflected in the Chairman's summaries of discussions (SCN.4/L.7 and Add.1, L.9/Add.1, L.10 and Add.1 and Add.1/Corr.1). The Secretariat has formulated the Final Draft Rules of the Tribunal, as contained in annex 1 on the basis of the decision of the Special Commission (LOS/PCN/L.53, para. 9).

Section 2. Composition of the Tribunal and its Chambers

In connection with the geographical distribution and the representation of the principal legal systems in the composition of the Tribunal and its chambers, the Special Commission expressed the view that firm and detailed rules should not be established by the Preparatory Commission. The deliberations of the Special Commission in this connection are reflected in Chapter VI, section 2 below.

Section 3. Official Working Languages

The Special Commission exchanged views on the official languages and those in which its pleadings and judgements would be issued as reflected in the Chairman's summary of discussions (SCN.4/L.14, pages 10 and 11); Chairman's Statement to the Plenary (LOS/PCN/L.86, paras. 6-8); and Proposals submitted by delegations (SCN.4/WP.12 and 13). Chapter IV, section 1 below also deals with this question.

Section 4. Harmonization of Jurisprudence

The need to provide a means to achieve harmonisation of the jurisprudence of the Tribunal and its chambers was considered. A proposal was made as to how this can be achieved and the deliberations of the Preparatory Commission are reflected in the Chairman's summary of discusssions (SCN.4/L.3, paras. 99-100).

Section 5. Internal Judicial Practice

The Final Draft Rules of the Tribunal (annex 1 hereto) recognise the requirement for a resolution to be formulated by the Tribunal on its internal judicial practice in a manner consistent with the practice of the International Court of Justice. The deliberations of the Special Commission in this connection are reflected in the Chairman's summary of discussions (SCN.4/L.7, paras. 27-30).

Section 6. Access by States not Parties to the Convention

A resolution or other means setting out the terms for access to the Tribunal by States not parties to the Convention would have to be formulated. Such provision was made in connection with the International Court of Justice regarding the participation of States Parties to the Statute of the Court which are not States Members of the United Nations as provided in General Assembly resolution 91 (I) of 11 December 1946.

CHAPTER II. INTERNATIONAL AGREEMENTS

Section 1. Recommendations Concerning the Draft Headquarters Agreement Between the International Tribunal for the Law of the Sea and the Federal Republic of Germany

For the purpose of preparing for the International Tribunal to function at the seat of the Tribunal in Germany, it is desirable that the Meeting of States Parties facilitates the Tribunal and the host country entering into a headquarters agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, approved by the Commission and its Special Commission 4 contained in annex 2 should provide the basis for negotiating and entering into such an agreement.

/...

The Special Commission first discussed the requirements for a headquarters agreement (SCN.4/WP.1, para. 7). It also discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work. These discussions took into account the items listed in SCN.4/WP.1, paras. 3 and 5-7. Account was also taken of SCN.4/WP.4, which identifies issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9). Thereafter, a draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5, Parts I and II) prepared by the Secretariat at the request by the Special Commission (LOS/PCN/L.47) was deliberated on as reflected in the Chairman's summary of discussions (SCN.4/L.11 and Add.1).

A Revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5/Rev.1 and Corr.1) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions and the suggestions of a drafting nature and providing compromise texts on issues where agreement was not reached was considered and approved by the Special Commission in accordance with the deliberations reflected in the Chairman's summary of discussions (SCN.4/L.___). 8/

The Secretariat has formulated the Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, as contained in annex 2 on the basis of the decision of the Special Commission (LOS/PCN/L.101, para 4; SCN.4/1992/CRP.45) and harmonised to the extent possible with the Final Draft Revised Protocol on the Privileges and Immunities of the Tribunal.

Section 2. Recommendations Concerning the Draft Protocol on the Privileges and Immunities of the Tribunal

For the purpose of providing the requisite privileges and immunities for the effective functioning of the International Tribunal, it is desirable that the Meeting of States Parties adopts an international protocol that may be adhered to by all States.

Therefore

THE PREPARATORY COMMISSION recommends:

> the Final Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea, approved by the Commission and its Special Commission 4 contained in annex 3 for adoption and adherence by all States.

8/ The Chairman's summary of discussions is to be issued.

The Commission discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work, taking into account the items listed in SCN.4/WP.1, paras. 3 and 5 to 7. Account was also taken of SCN.4/WP.4, which identified issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9).

Thereafter, a Draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6) was prepared by the Secretariat at the request of the Commission (LOS/PCN/L.53, para. 19 (c)). This working paper was reviewed article by article by the Special Commission as reflected in the Chairman's summary of discussions (SCN.4/L.13 and Add.1).

Subsequently, a Revised Draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1 and Corr.1 and 2) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions (SCN.4/1988/CRP.24, 26 and 27; SCN.4/1989/CRP.31 and 33 to 35), and the suggestions of a drafting nature; and providing compromise texts on issues where agreement was not reached (LOS/PCN/L.91, para. 10), was considered and approved by the Special Commission in accordance with the deliberations reflected in the Chairman's summary of discussions (SCN.4/L.___). 9/

The Secretariat has formulated the Final Draft Protocol on Privileges and Immunities of the International Tribunal, as contained in annex 3 on the basis of the decision of the Special Commission (LOS/PCN/L.101, para. 5) taking into account the deliberations in the Special Commission and the draft texts proposed for specific provisions (SCN.4/1991/CRP.41-44 and 46) and harmonized to the extent possible the text with the Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany.

Section 3. Use of the United Nations Laissez-passer by the Tribunal

The use of the United Nations Laissez-passer by the Tribunal and its officials was considered by the Special Commission as reflected in the Chairman's summary of discussions (SCN.4/L.11/Add.1) (and SCN.4/L.___). 9/ The relevant issue may be dealt with in the context of Chapter III, section 1 below.

9/ Chairman's summary of discussions is to be issued.

CHAPTER III. RELATIONSHIP ARRANGEMENTS

Section 1. Recommendations Concerning Relationship Arrangements Between the United Nations and the International Tribunal for the Law of the Sea

In order to achieve greater efficiency and to more effectively fulfil the objectives of the International Tribunal and the United Nations, it is desirable that the Meeting of States Parties facilitates the Tribunal and the United Nations entering into a relationship agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Final Draft Relationship Agreement Between the United Nations and the International Tribunal for the Law of the Sea, formulated by the Commission and its Special Commission 4 contained in annex 4, should provide the basis for negotiating and entering into such an agreement.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8-12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)) were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The draft relationship arrangement between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9 and Add.1), prepared by the Secretariat pursuant to the request of the Special Commission (LOS/PCN/L.76, para. 12 (b)) was reviewed by the Special Commission as reflected in the Chairman's summary of discussions (SCN.4/L.15). The Secretariat has formulated the Final Draft Relationship Agreement Between the United Nations and the International Tribunal for the Law of the Sea as contained in annex 4 on the basis of the decision of the Special Commission (LOS/PCN/L.___) 10/ with due consideration for the views expressed in the Commission regarding the need for maximum economy in establishing the Tribunal and its functioning while maintaining the highest possible level of efficiency (LOS/PCN/L.86, para. 5).

10/ Chairman's Statement to the Plenary (to be issued) assumed that the relevant decision will be taken.

Section 2. Relationship Arrangement Between the International Tribunal for the Law of the Sea and the International Seabed Authority

For the purpose of addressing the role of the Tribunal in relation to the activities of the International Seabed Authority, it is desirable that an appropriate relationship arrangement be entered into between them.

Therefore

THE PREPARATORY COMMISSION submits:

> a Report on the deliberations and suggestions of the Special Commission concerning the Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority, prepared by the Secretariat and contained in annex 5 as a basis for the deliberations of the Meeting of States Parties.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8- 12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)) were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The working paper on Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (SCN.4/WP.10) prepared by the Secretariat was reviewed by the Special Commission and the Chairman's summary of discussions (SCN.4/L.___) 11/ reflects the deliberations and suggestions of the Commission.

Section 3. Supplementary Arrangements Between the International Tribunal for the Law of the Sea and the International Court of Justice

Supplementary arrangements between the Tribunal and the International Court of Justice were not formulated by the Special Commission. Consequent upon the communication from the Registrar of the International Court of Justice, the Special Commission decided that it would not consider such relationship arrangements and that it would be left to the Tribunal and Court to determine on an ad hoc basis and as appropriate, the relationship arrangements that may be required. The deliberations of the Special Commission are reflected in the Chairman's Statement to the Plenary (LOS/PCN/L.101, para. 6).

11/ The Chairman's Summary of Discussions is to be issued.

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS

Section 1. Recommendations Concerning Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea and Recommendations Concerning the Scheme for the Initial Phasing-in of the Establishment of the International Tribunal for the Law of the Sea

The degree to which the Tribunal can fulfil its purposes will be determined by its institutional structure, the effectiveness of its administration including budgetary and personnel matters, and the efficiency of its services.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Final Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea, prepared by the Secretariat contained in annex 6 should provide the basis for the deliberations and determinations of the Meeting of States Parties.

The working paper: Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (SCN.4/WP.8) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12. (a)) was based on the organizational structure of the Tribunal as set out in the Convention and taking into account the structure of existing international tribunals and courts and their experiences based on the use of two working languages, with the pleadings and judgements to be issued in all six working languages of the United Nations after completion of each application, case or advisory opinion. The Addendum: Supplementary cost estimates reflecting alternatives as to official working languages (SCN.4/WP.8/Add.1 and Corr.1); and the further Addendum: Scheme to phase-in the establishment of the International Tribunal for the Law of the Sea (SCN.4/WP.8/Add.2 and Corr.1) were also presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12 (a)). While no conclusions were reached, the deliberations of the Special Commission were reflected in the Chairman's summary of discussions (SCN.4/L.14 and SCN.4/L.___ 12/ and LOS/PCN/L.81, paras. 5-9).

12/ To be issued.

The Secretariat has formulated the Final Draft Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea as contained in annex 6 on the basis of the decision of the Special Commission (LOS/PCN/L.91, para. 8) containing relevant elements relating to the scheme for phasing-in the establishment of the Tribunal and the alternative schemes concerning the implications of the number of official languages and working languages.

As regards languages of the Tribunal, the Commission conducted an exchange of views as reflected in the Chairman's Statement to the Plenary (LOS/PCN/L.86, paras. 6-8) and informal consultations were conducted among interested delegations on this question. Subsequently proposals were submitted by the delegation of Cuba on behalf of the Group of Latin American and Caribbean Countries (SCN.4/WP.12) and by the delegations of Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland (SCN.4/WP.13).

Section 2. Recommendations Concerning the Draft Financial Rules and Staff Regulations

As regards the principles to govern the financial rules of the Tribunal and its staff regulations, it was the understanding of the Special Commission that the Secretariat would prepare the requisite documentation to be submitted to the Meeting of States Parties for its consideration (LOS/PCN/L.81, paras. 15-17).

Section 3. Recommendations Concerning the Initial Financing and Budget of the International Tribunal for the Law of the Sea

For the early functioning of the Tribunal and in order to ensure the requisite financing, it is desirable that the Meeting of States Parties determines an appropriate arrangement.

Therefore

THE PREPARATORY COMMISSION submits:

> a Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea prepared by the Secretariat and contained in annex 7, to provide a basis for the deliberations and determination of the Meeting of States Parties.

The working paper (SCN.4/WP.11) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.91) was based on existing precedents and experiences in establishing international organisations. The Commission reviewed the working paper as reflected in the Chairman's summary of discussions (SCN.4/L.___). 11/ The Secretariat has formulated the Report

/...

with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea, contained in annex 7, based on the basis of the deliberations of the Special Commission and containing relevent elements relating to the scheme for phasing-in the Tribunal, as decided by the Special Commission (LOS/PCN/L.___). 11/

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Section 1. Recommendations Concerning the Location and Site for the Headquarters of the International Tribunal for the Law of the Sea

For the purpose of preparing for the International Tribunal for the Law of the Sea to establish its permanent headquarters at the site offered by the host country, in an appropriate environment it is desirable that the Meeting of States Parties endorses the arrangements for the same.

Therefore

THE PREPARATORY COMMISSION having taken note that:

> the host country, Germany, has notified the Commission that the location of the permanent headquarters of the Tribunal would be at the site offered in the Free and Hanseatic City of Hamburg, situated in the Nienstedten suburb of Hamburg-Altona (more fully described in SCN.4/L.8) conveys the same to the Meeting of States Parties.

Section 2. Recommendations Concerning the Building Requirements and Facilities of the International Tribunal for the Law of the Sea Provided by the Host Country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities provided by the host country for the most effective discharge of the functions of the Tribunal, it is desirable that the Meeting of States Parties approves the appropriate arrangements for the same.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Meeting of States Parties takes note of the planning and arrangements made in this connection by the host country including the specifications provided in SCN.4/L.16 and Add.1.

The Preparatory Commission and Special Commission 4 had received reports from the host country on the designation of the site in Hamburg and the progress made in evaluating requirements and planning for the building and equipment needs of the Tribunal including indications as to site, building, equipment and facilities being provided to the Tribunal by the host country. The relevant documents and reports reviewed and taken note of in this connection are:

(a) Preliminary information on the establishment of facilities for international courts and tribunals (SCN.4/1986/CRP.19 dated 8 April 1986);

(b) Brief progress report on the preparations for the housing of the International Tribunal for the Law of the Sea in Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.6 dated 2 September 1986);

(c) Letter dated 9 February 1987 from the Chairman of the Delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/80 dated 12 March 1987);

(d) Second report on practical arrangements for the installation of the International Tribunal for the Law of the Sea at Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.8 dated 13 March 1987);

(e) Report of the Chairman on the visit by the Bureau of Special Commission 4 and officials of the United Nations Secretariat to the Federal Republic of Germany 24-28 August 1987 (SCN.4/L.12 dated 21 March 1988);

(f) Letter dated 15 March 1989 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/106 dated 17 March 1989);

(g) Report on the progress of work dated 13 March 1991 concerning building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg - Statement of the Parliamentary State-Secretary H.E. Mr. Rainer Funke, Ministry of Justice of the Federal Republic of Germany (SCN.4/1991/CRP.40 dated 15 March 1991).

(h) Report of the delegation of the Federal Republic of Germany on the building requirements and facilities for the International Tribunal on the Law of the Sea in Hamburg (SCN.4/L.16 dated 9 March 1992).

Section 3. Recommendations Concerning the Requirements and Facilities Necessary to Supplement those Provided by the Host Country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities in addition to those provided by the host country, it is desirable that the Meeting of States Parties makes appropriate arrangements for the same.

/...

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Meeting of States Parties in addition to taking note of the planning and arrangements made in this connection by the host country evaluates the needs and determines the necessary arrangements to supplement those provided by the host country.

The Preparatory Commission and Special Commission 4 received reports from the host country specifying the progress made in evaluating requirements and planning for the building and providing equipment needs of the Tribunal including facilities and furnishings to be provided by it. The relevant documents and reports taken note of in this connection are identified in section 2 above. While these reports and the information provided do not contain precise description as to furniture and equipment, the objective of the host country is to hand over a building in a state that is ready for use. This would include the equipment for heating, lighting, telephones, telefax, interpreters' booths, sanitary and electronic installations and ventilation equipment for special rooms. Storage, filing and cloakroom facilities in the relevant offices and basic furniture such as desks, filing equipmont, trolleys, reception tables, soft furnishings, chairs, furniture for sittings and meeting rooms, archive and library shelving and equipment for the restaurant area are contemplated as coming within the furnished facility to be provided. It would not include such items as typewriters, copy machines and reading lights as well as special furniture, e.g. safes and private furnishing for the Caretaker's flat. The Meeting of States Parties would have to evaluate such items and the office and data processing equipment and other operational accessories to be provided for.

CHAPTER VI. FIRST MEETING OF STATES PARTIES

Section 1. Provisional Agenda and Rules of Procedure for the Meeting of States Parties

For the purpose of constituting the International Tribunal early to perform its central role in the settlement of disputes relating to the law of the sea following the entry into force of the Convention, it is desirable that the relevant decisions for the functioning of the Meeting of States Parties be taken and that it proceeds with the election of the members of the Tribunal.

Therefore

THE PREPARATORY COMMISSION submits:

1. the Provisional Agenda for the Meeting of States Parties prepared by the Secretariat and contained in annex 8;

/...

2. the Provisional Rules of Procedure for the Meeting of States Parties prepared by the Secretariat 13/ and contained in annex 9. It is understood that the Provisional Rules may be adopted for the conduct of its business and that they would be examined in due course with a view to the adoption of permanent Rules of Procedure for subsequent Meetings of States Parties.

Section 2. Election of the Members of the Tribunal

In view of the requirement of the Convention that the first election of the members of the Tribunal shall be held within six months of the date of entry into force of this Convention, it is essential that the election should take place during the first Meeting of States Parties. The Secretary-General of the United Nations whose function it is, under article 4 of the Statute of the Tribunal, would issue the invitations to States Parties for the nomination of candidates for election as members of the Tribunal at least three months before the date of election, would prepare a list of all persons thus nominated to be submitted to States Parties within the time prescribed, and would communicate the same to the Meeting of States Parties.

In connection with the geographical distribution and the representation of the principal legal systems among the members of the Tribunal in its composition and in the composition of its Chambers, the Preparatory Commission expressed the view that firm and detailed rules should not be established by it. However, the principles to be applied in making such determinations would be needed. The Preparatory Commission considered it useful for relevant proposals and recommendations to be made for consideration by the Meeting of States Parties 14/ and the Secretariat was, therefore, requested to draw up a Comparative Table regarding the alternatives for distribution of the six additional seats after fulfilling the minimum geographical representation requirement.

Therefore

THE PREPARATORY COMMISSION submits for consideration:

a Comparative Table providing alternatives for the distribution of the six additional seats among members of the Tribunal after fulfilling the minimum geographic representation requirement, prepared by the Secretariat and contained in annex 10.

13/ The Chairman's Statement to the Plenary (LOS/PCN/L.81, paras. 16 and 17).

14/ Refer SCN.4/L.1.

LIST OF ANNEXES

Annex 1: Final Draft Rules of the Tribunal. (Prepared by the Secretariat as a revision of the Revised Draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) on the basis of the conclusions of the Special Commission.)

Annex 2: Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. (Prepared by the Secretariat as a revision of the Revised Draft Headquarters Agreement (SCN.4/WP.5/Rev.1 and Corr.1) on the basis of the conclusions of the Special Commission.)

Annex 3: Final Draft Protocol on the Privileges and Immunities of the International Tribunal. (Prepared by the Secretariat as a revision of the Draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6) on the basis of the conclusions of the Special Commission.)

Annex 4: Final Draft Relationship Agreement Between the United Nations and the International Tribunal for the Law of the Sea. (Prepared by the Secretariat as a revision of the Draft Relationship Arrangement Between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9) on the basis of the conclusions of the Special Commission.)

Annex 5: Report on the deliberations and suggestions of the Special Commission concerning the Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority. (Prepared by the Secretariat.)

Annex 6: Final Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea. (Prepared by the Secretariat.)

Annex 7: Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea. (Prepared by the Secretariat.)

Annex 8: Provisional Agenda for the First Meeting of States Parties to the Convention convened in accordance with annex VI, article 4 of the Convention. (Prepared by the Secretariat.)

Annex 9: Provisional Rules of Procedure for the Meeting of States Parties (see LOS/PCN/L.81, paras. 15 and 17). (Prepared by the Secretariat.)

Annex 10: Comparable Table of Alternatives for the Distribution of the Additional Seats Among Members of the Tribunal after fulfilling the minimum geographic representation requirement. (Prepared by the Secretariat.)

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LIST OF ATTACHMENTS

(ALL SCN4 DOCUMENTS, COMPRISING WORKING PAPERS, PROPOSALS, CONFERENCE ROOM PAPERS, ETC. WOULD BE LISTED HERE AND ATTACHED TO THE FINAL DOCUMENT)

/...

LOS/PCN/SCN.4/WP.15
5 March 1993

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
Kingston, 22 March-2 April 1993

DRAFT REPORT OF THE PREPARATORY COMMISSION UNDER PARAGRAPH 10 OF RESOLUTION I CONTAINING RECOMMENDATIONS REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Introductory note

1. The present draft report, subject to the review of and modifications as may be made by the Preparatory Commission, will constitute the report of the Preparatory Commission under paragraph 10 of resolution I of the Third United Nations Conference on the Law of the Sea, to be presented to the Meeting of States Parties. The component reports and final working papers contained in the addenda to the present draft report would become an integral part of the final report under resolution I.*

2. At the summer meeting of the tenth session, Special Commission 4 had before it the draft outline for the report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.14). That working paper was presented as a draft outline since the Special Commission had decided to carry out an overview of the form and content of the final report. Furthermore, the component reports and revisions to working papers resulting from the work of the Special Commission were under preparation. They were to be finalized by the Secretariat on the basis of the decisions already taken or to be taken upon the conclusion of the Special Commission's work. The directions given to the Secretariat by the Special Commission required the incorporation of agreed textual changes in the working papers, the formulation of texts by the Secretariat, including the provision of compromise texts for issues on which there was no prevailing agreement in the Special Commission, and required harmonization of some working papers. Certain issues called for the preparation of reports of deliberations indicating trends and directions. For these reasons the final working papers and component reports reflecting the outcome of the work of the Special Commission were identified as proposed annexes to the final draft report, though they could not be annexed to the draft outline in document LOS/PCN/SCN.4/WP.14. They were identified as proposed annexes for purposes of reference only.

3. Following the issuance of the draft outline for the report (LOS/PCN/SCN.4/WP.14), the Preparatory Commission at its tenth session summer meeting in New York invited participating States to submit their comments on the draft provisional reports of the four Special Commissions and the informal Plenary. The draft report presented herein has been formulated pursuant to that decision and takes into account the comments received with respect to LOS/PCN/SCN.4/WP.14.

4. The component reports and working papers referred to above which reflect the results of the work of Special Commission 4, whether formulated by it or at its request, would be provided in final revised form and would constitute addenda to the present draft report as indicated herein.*

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* The addenda as listed in annex I to the present report are under preparation and would be issued as they become available.

5. A separate list of attachments to the present working paper identifies the relevant core documentation of the Special Commission and of the Preparatory Commission which are considered essential to providing a faithful record of the work of the Special Commission, its deliberations and its conclusions and decisions which led to the preparation and presentation of the draft report.

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CONTENTS

Page

INTRODUCTION 367

CHAPTER I. JUDICIAL PROCEDURE 369

Section 1. Recommendations concerning the draft Rules of the Tribunal 369

Section 2. Composition of the Tribunal and its chambers 369

Section 3. Official working languages 370

Section 4. Harmonization of jurisprudence 370

Section 5. Internal judicial practice 370

Section 6. Access by States not parties to the Convention 370

CHAPTER II. INTERNATIONAL AGREEMENTS 370

Section 1. Recommendations concerning the draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany 370

Section 2. Recommendations concerning the draft Protocol on the Privileges and Immunities of the Tribunal 371

Section 3. Use of the United Nations laissez-passer by the Tribunal 373

CHAPTER III. RELATIONSHIP ARRANGEMENTS 373

Section 1. Recommendations concerning relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea 373

Section 2. Relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority 374

Section 3. Supplementary arrangements between the International Tribunal for the Law of the Sea and the International Court of Justice 374

/...

CONTENTS (continued)

Page

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS 375

Section 1. Recommendations concerning administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea

and

Recommendations concerning the scheme for the initial phasing-in of the establishment of the International Tribunal for the Law of the Sea 375

Section 2. Recommendations concerning the draft financial rules and staff regulations 376

Section 3. Recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea 376

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA 377

Section 1. Recommendations concerning the location and site for the headquarters of the International Tribunal for the Law of the Sea 377

Section 2. Recommendations concerning the building requirements and facilities of the International Tribunal for the Law of the Sea provided by the host country 377

Section 3. Recommendations concerning the requirements and facilities necessary to supplement those provided by the host country 379

CHAPTER VI. FIRST MEETING OF STATES PARTIES 379

Section 1. Provisional agenda and rules of procedure for the Meeting of States Parties 379

Section 2. Election of the members of the Tribunal 380

Annexes

I. List of addenda 381

II. List of attachments 383

INTRODUCTION

1. The present report reflects the work of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in making practical arrangements for the establishment of the International Tribunal for the Law of the Sea. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea, which contains the Statute of the Tribunal in annex VI thereto. Resolution I adopted with the Convention by the Third United Nations Conference on the Law of the Sea established the Preparatory Commission and mandated it, inter alia, to prepare a report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea for submission to the Meeting of States Parties to be convened in accordance with the Statute of the Tribunal. 1/ The Preparatory Commission established at its first session, besides its Plenary and the General Committee, four Special Commissions. Special Commission 4 was charged with the preparation of the report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea. 2/ The Preparatory Commission elected Dr. Gunter Goerner (German Democratic Republic) as Chairman of Special Commission 4 and he served from the first session in 1983 to the eighth session in 1990. 3/ On 25 February 1991, the Preparatory Commission elected Mr. Anton Bouteiko (Ukraine) to replace him. Colombia, Greece, Philippines and Sudan were elected as Vice-Chairmen of the Special Commission, constituting, with its Chairman, the Bureau.
Dr. Theodore Chalkiopoulos (Greece), Vice-Chairman, acted as Chairman in the absence of the Chairman at the seventh session of the Preparatory Commission held at Kingston, 4/ at the eighth session held in New York 5/ and at the tenth session in Kingston and in New York. 6/

1/ Annex VI, article 4.

2/ See resolution I, para. 10; and LOS/PCN/27, annex.

3/ He served until the accession of the German Democratic Republic to the Federal Republic of Germany.

4/ The seventh session was held at Kingston, Jamaica, from 27 February 1989 to 23 March 1989.

5/ The resumed eighth session was held in New York from 13 to 31 August 1990.

6/ The tenth session was held at Kingston, Jamaica, from 24 February 1992 to 13 March 1992 and the summer meeting from 10 to 21 August 1992 in New York.

2. The Special Commission adopted its provisional agenda contained in SCN.4/1984/CRP.1 and Rev.1. 7/ Its mandate was initially elaborated in SCN.4/WP.1. When considering its work programme the Commission first decided to take up the items listed in paragraph 3 of SCN.4/WP.1, with the addition of Relationship Agreements as referred to in part II of that working paper. The Commission also expressed the need to prepare rules for the Meeting of States Parties and recommendations for the election of members of the Tribunal. It did not consider it appropriate to prepare a comprehensive list of issues and items for its programme of work since additional items might be considered necessary as work progressed. For each session of the Preparatory Commission, the requirements for the programme of work were further elaborated as necessary and priorities established by the Special Commission on the recommendation of its Bureau and the initiative of its Chairman. The method of work was also established and the Commission dealt with the items under its work programme on that basis.

3. The Special Commission prepared the draft outline for the report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (SCN.4/WP.14) which was the basis for its consideration of the recommendations of the Preparatory Commission to the Meeting of States Parties. Taking into account the comments received from participating States on the draft outline contained in SCN.4/WP.14, the draft report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea as contained herein was considered by the Special Commission. With the adoption by the Preparatory Commission of the present draft report, the final stage in the establishment of the International Tribunal for the Law of the Sea has been commenced with the preparation for the first Meeting of States Parties to the Convention prior to the inauguration of the Tribunal.

7/ References to documents of Special Commission 4 are abbreviated throughout this paper for convenience. It should be noted that they all require the prefix LOS/PCN for complete reference purposes. The documents of Special Commission 4 referred to herein are attached hereto and are more fully identified in the list of attachments.

CHAPTER I. JUDICIAL PROCEDURE

Section 1. Recommendations concerning the draft Rules of the Tribunal

For the purpose of preparing for the International Tribunal to perform its judicial functions at the earliest possible time after entry into force of the Convention, it is desirable that the Meeting of States Parties facilitates the adoption of the rules of the Tribunal.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final draft Rules of the Tribunal approved by the Commission and its Special Commission 4, addendum 1 hereto, should provide the basis for the adoption by the Tribunal of its rules of procedure.

The Special Commission first considered the requirements for the procedural rules of the Tribunal and examined the items listed in SCN.4/WP.1. Account was taken of SCN.4/1984/CRP.2-5 in this connection. Thereafter, the draft Rules of the Tribunal (SCN.4/WP.2); and the supplement to the draft Rules of the Tribunal - on the Prompt Release of Vessels and Crews (SCN.4/WP.2/Add.1): working papers prepared by the Secretariat, were examined by the Special Commission, taking into account the table of concurrence of the draft Rules of the Tribunal (SCN.4/WP.3) and the draft texts proposed for specific provisions (SCN.4/1985/CRP.6, SCN.4/1985/CRP.7-10 and 12-14, SCN.4/1986/CRP.15-18) as reflected in the Chairman's summaries of discussions (SCN.4/L.2 and Add.1 and Add.1/Corr.1, L.3 and Add.1, L.4 and Add.1, L.5 and Add.1).

Thereafter the Special Commission considered the revision of the draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) prepared by the Secretariat, taking into account the draft texts proposed for specific provisions (SCN.4/1986/CRP.20, SCN.4/1987/CRP.22, SCN.4/1988/23 and Rev.1, 25, 28-30, SCN.4/1989/32 and 37), as reflected in the Chairman's summaries of discussions (SCN.4/L.7 and Add.1, L.9/Add.1, L.10 and Add.1 and Add.1/Corr.1). The Special Commission decided (LOS/PCN/L.53, para. 9) that the Secretariat would formulate the Final Draft Rules of the Tribunal, addendum 1 hereto.

Section 2. Composition of the Tribunal and its chambers

In connection with the geographical distribution and the representation of the principal legal systems in the composition of the Tribunal and its chambers, the Special Commission expressed the view that firm and detailed rules should not be established by the Preparatory Commission. The deliberations of the Special Commission in this connection are reflected in chapter VI, section 2, below.

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Section 3. Official working languages

The Special Commission exchanged views on the official languages and those in which its pleadings and judgments would be issued as reflected in the Chairman's summary of discussions (SCN.4/L.14, pp. 10 and 11); Chairman's Statement to the Plenary (LOS/PCN/L.86, paras. 6-8); and proposals submitted by delegations (SCN.4/WP.12 and 13). Chapter IV, section 1, below also deals with this question.

Section 4. Harmonization of jurisprudence

The need to provide a means to achieve harmonization of the jurisprudence of the Tribunal and its chambers was considered. A proposal was made as to how this can be achieved and the deliberations of the Preparatory Commission are reflected in the Chairman's summary of discussions (SCN.4/L.3, paras. 99-100).

Section 5. Internal judicial practice

The draft Rules of the Tribunal recognize the requirement for a resolution to be formulated by the Tribunal on its internal judicial practice in a manner consistent with the practice of the International Court of Justice. The deliberations of the Special Commission in this connection are reflected in the Chairman's summary of discussions (SCN.4/L.7, paras. 27-30).

Section 6. Access by States not parties to the Convention

The terms for access to the Tribunal by States not parties to the Convention would, as necessary, be elaborated by the Tribunal in accordance with annex VI taking into account, where appropriate, the practice of the International Court of Justice regarding the participation of States Parties to the Statute of the Court which are not States Members of the United Nations, as provided in General Assembly resolution 91 (I) of 11 December 1946.

CHAPTER II. INTERNATIONAL AGREEMENTS

Section 1. Recommendations concerning the draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany

For the purpose of preparing for the International Tribunal to function at the seat of the Tribunal in Germany, it is desirable that the Meeting of States Parties facilitates the Tribunal and the host country entering into a headquarters agreement.

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Therefore

THE PREPARATORY COMMISSION recommends that:

> the final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, formulated by the Commission and its Special Commission 4, addendum 2 hereto, should provide the basis for negotiating and entering into such an agreement.

The Special Commission first discussed the requirements for a headquarters agreement (SCN.4/WP.1, para. 7). It also discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work. These discussions took into account the items listed in SCN.4/WP.1, paras. 3 and 5 to 7. Account was also taken of SCN.4/WP.4, which identifies issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9). Thereafter, a draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5, Parts I and II) was prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.47) and deliberated on, as reflected in the Chairman's summary of discussions (SCN.4/L.11 and Add.1).

A revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5/Rev.1 and Corr.1) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions and the suggestions of a drafting nature, and providing compromise texts on issues where agreement was not reached, was considered and approved by the Special Commission in accordance with its deliberations. 8/

The Special Commission decided that the Secretariat would formulate the final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, addendum 2 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.101, para 4; SCN.4/1992/CRP.45) and harmonized to the extent possible with the final draft revised Protocol on the Privileges and Immunities of the Tribunal.

Section 2. Recommendations concerning the Draft Protocol on the Privileges and Immunities of the Tribunal

For the purpose of providing the requisite privileges and immunities for the effective functioning of the International Tribunal, it is desirable that the Meeting of States Parties adopts an international protocol that may be adhered to by all States.

8/ Reflected in the Chairman's summary of discussions (to be issued).

Therefore

THE PREPARATORY COMMISSION recommends:

> the final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea, approved by the Commission and its Special Commission 4, addendum 3 hereto, for adoption and adherence by all States.

The Commission discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work, taking into account the items listed in SCN.4/WP.1, paragraphs 3 and 5 to 7. Account was also taken of SCN.4/WP.4, which identified issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9).

Thereafter, a draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6) was prepared by the Secretariat at the request of the Commission (LOS/PCN/L.53, para. 19 (c)). This working paper was reviewed article by article by the Special Commission, as reflected in the Chairman's summary of discussions (SCN.4/L.13 and Add.1).

Subsequently, a revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1 and Corr.1 and 2) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions (SCN.4/1988/CRP.24, 26 and 27; SCN.4/1989/CRP.31 and 33-35), and the suggestions of a drafting nature, and providing compromise texts on issues where agreement was not reached (LOS/PCN/L.91, para. 10), was considered and approved by the Special Commission in accordance with its deliberations. 9/

The Special Commission decided that the Secretariat would formulate the final draft Protocol on Privileges and Immunities of the International Tribunal, addendum 3 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.101, para. 5), taking into account the deliberations in the Special Commission and the draft texts proposed for specific provisions (SCN.4/1991/CRP.41-44 and 46) and harmonized to the extent possible with the final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany.

9/ Reflected in the Chairman's summary of discussions (to be issued).

Section 3. Use of the United Nations laissez-passer by the Tribunal

The use of the United Nations laissez-passer by the Tribunal and its officials was considered by the Special Commission in its deliberations, as reflected in the Chairman's summary of discussions (SCN.4/L.11/Add.1). 10/ The relevant issue may be dealt with in the context of chapter III, section 1, below.

CHAPTER III. RELATIONSHIP ARRANGEMENTS

Section 1. Recommendations concerning relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea

In order to achieve greater efficiency and to more effectively fulfil the objectives of the International Tribunal and the United Nations, it is desirable that the Meeting of States Parties facilitates the Tribunal and the United Nations entering into a relationship agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final draft Relationship Agreement between the United Nations and the International Tribunal for the Law of the Sea, formulated by the Commission and its Special Commission 4, addendum 4 hereto, should provide the basis for negotiating and entering into such an agreement.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8-12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7), prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)), were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The draft relationship arrangement between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9 and Add.1), prepared by the Secretariat pursuant to the request of the Special Commission (LOS/PCN/L.76, para. 12 (b)), was reviewed by the Special Commission, as reflected in the Chairman's summary of discussions (SCN.4/L.15). The final draft Relationship Agreement between the United Nations and the International Tribunal for the Law of the Sea formulated by the Secretariat, addendum 4 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.107)

10/ Further discussions reflected in the Chairman's summary of discussions (to be issued).

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with due consideration for the views expressed in the Commission regarding the need for maximum economy in establishing the Tribunal and its functioning while maintaining the highest possible level of efficiency (LOS/PCN/L.86, para. 5).

Section 2. Relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority

For the purpose of addressing the role of the Tribunal in relation to the activities of the International Seabed Authority, it is desirable that an appropriate relationship arrangement be entered into between them.

Therefore

THE PREPARATORY COMMISSION submits:

> a report on the deliberations and suggestions of the Special Commission concerning the principles governing relationship arrangements between the International Tribunal and the International Seabed Authority, prepared by the Secretariat, addendum 5 hereto, as a basis for the deliberations of the Meeting of States Parties.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8-12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7), prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)), were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The working paper on principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (SCN.4/WP.10), prepared by the Secretariat was reviewed by the Special Commission. 11/

Section 3. Supplementary arrangements between the International Tribunal for the Law of the Sea and the International Court of Justice

Supplementary arrangements between the Tribunal and the International Court of Justice were not formulated by the Special Commission. Consequent upon the communication from the Registrar of the International Court of Justice, the Special Commission decided that it would not consider such relationship arrangements and that it would be left to the Tribunal and Court to determine on an ad hoc basis and as appropriate, the relationship

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11/ The deliberations and suggestions of the Special Commission are reflected in the Chairman's Summary of Discussions (to be issued).

arrangements that may be required. The deliberations of the Special Commission are reflected in the Chairman's statement to the plenary (LOS/PCN/L.101, para. 6).

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS

Section 1. Recommendations concerning administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea

and

Recommendations concerning the scheme for the initial phasing-in of the establishment of the International Tribunal for the Law of the Sea

The degree to which the Tribunal can fulfil its purposes will be determined by its institutional structure, the effectiveness of its administration, including budgetary and personnel matters, and the efficiency of its services.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea, prepared by the Secretariat, addendum 6 hereto, should provide the basis for the deliberations and determinations of the Meeting of States Parties.

The working paper titled "Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (SCN.4/WP.8), prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12 (a)), was based on the organizational structure of the Tribunal as set out in the Convention and taking into account the structure of existing international tribunals and courts and their experiences based on the use of two working languages, with the pleadings and judgments to be issued in all six working languages of the United Nations after completion of each application, case or advisory opinion. The addendum, "Supplementary cost estimates reflecting alternatives as to official working languages" (SCN.4/WP.8/Add.1 and Corr.1), and the further addendum, "Scheme to phase in the establishment of the International Tribunal for the Law of the Sea" (SCN.4/WP.8/Add.2 and Corr.1), were also prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12 (a)). While no conclusions were reached, the deliberations of the Special Commission were reflected in the Chairman's summary of discussions (SCN.4/L.14 and LOS/PCN/L.81, paras. 5-9). 12/

The Special Commission decided that the Secretariat would formulate the final draft working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea, addendum 6 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.91, para. 8), containing relevant elements relating to the scheme for phasing in the establishment of the Tribunal and the alternative schemes concerning the implications of the number of official languages and working languages.

As regards the languages of the Tribunal, the Commission conducted an exchange of views, as reflected in the Chairman's statement to the plenary (LOS/PCN/L.86, paras. 6-8), and informal consultations were conducted among interested delegations on this question. Subsequently, proposals were submitted by the delegation of Cuba on behalf of the Group of Latin American and Caribbean Countries (SCN.4/WP.12) and by the delegations of Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland (SCN.4/WP.13).

Section 2. Recommendations concerning the draft financial rules and staff regulations

As regards the principles to govern the financial rules of the Tribunal and its staff regulations, it was the understanding of the Special Commission that the Secretariat would prepare the requisite documentation to be submitted to the Meeting of States Parties for its consideration (LOS/PCN/L.81, paras. 15-17).

Section 3. Recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea

For the early functioning of the Tribunal and in order to ensure the requisite financing, it is desirable that the Meeting of States Parties determines an appropriate arrangement.

12/ The further deliberations of the Special Commission are reflected in the Chairman's summary of discussions (to be issued).

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Therefore

THE PREPARATORY COMMISSION submits:

> a report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea prepared by the Secretariat, addendum 7 hereto, to provide a basis for the deliberations and determination of the Meeting of States Parties.

The working paper (SCN.4/WP.11) prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.91) was based on existing precedents and and experiences in establishing international organizations. The Commission reviewed the working paper. 11/ The Special Commission decided that the Secretariat would formulate a report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea, addendum 7 hereto, based on the deliberations of the Special Commission and containing relevant elements relating to the scheme for phasing in the Tribunal, as decided by the Special Commission (LOS/PCN/L.107).

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Section 1. Recommendations concerning the location and site for the headquarters of the International Tribunal for the Law of the Sea

For the purpose of preparing for the International Tribunal for the Law of the Sea to establish its permanent headquarters at the site offered by the host country, in an appropriate environment, it is desirable that the Meeting of States Parties endorses the arrangements for the same.

Therefore

THE PREPARATORY COMMISSION, having taken note that:

> the host country, Germany, has notified the Commission that the location of the permanent headquarters of the Tribunal would be at the site offered in the Free and Hanseatic City of Hamburg, situated in the Nienstedten suburb of Hamburg-Altona (more fully described in SCN.4/L.8), conveys the same to the Meeting of States Parties.

Section 2. Recommendations concerning the building requirements and facilities of the International Tribunal for the Law of the Sea provided by the host country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities provided by the host country for the most effective discharge of the functions of the Tribunal, it is desirable that the Meeting of States Parties takes note of the appropriate arrangements for the same.

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Therefore

THE PREPARATORY COMMISSION recommends that:

> the Meeting of States Parties takes note of the planning and arrangements made in this connection by the host country, including the specifications provided in SCN.4/L.16 and Add.1.

The Preparatory Commission and Special Commission 4 had received reports from the host country on the designation of the site in Hamburg and the progress made in evaluating requirements and planning for the building and equipment needs of the Tribunal, including indications as to site, building, equipment and facilities being provided to the Tribunal by the host country. The relevant documents and reports reviewed and taken note of in this connection are:

(a) Preliminary information on the establishment of facilities for international courts and tribunals (SCN.4/1986/CRP.19, dated 8 April 1986);

(b) Brief progress report on the preparations for the housing of the International Tribunal for the Law of the Sea in Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.6, dated 2 September 1986);

(c) Letter dated 9 February 1987 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/80, dated 12 March 1987);

(d) Second report on practical arrangements for the installation of the International Tribunal for the Law of the Sea at Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.8, dated 13 March 1987);

(e) Report of the Chairman on the visit by the Bureau of Special Commission 4 and officials of the United Nations Secretariat to the Federal Republic of Germany, 24-28 August 1987 (SCN.4/L.12, dated 21 March 1988);

(f) Letter dated 15 March 1989 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/106, dated 17 March 1989);

(g) Report on the progress of work dated 13 March 1991 concerning building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg - Statement of the Parliamentary State-Secretary H.E. Mr. Rainer Funke, Ministry of Justice of the Federal Republic of Germany (SCN.4/1991/CRP.40, dated 15 March 1991).

(h) Report of the delegation of the Federal Republic of Germany on the building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg (SCN.4/L.16, dated 9 March 1992).

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Section 3. Recommendations concerning the requirements and facilities necessary to supplement those provided by the host country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities in addition to those provided by the host country, it is desirable that the Meeting of States Parties makes appropriate arrangements for the same.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Meeting of States Parties, in addition to taking note of the planning and arrangements made in this connection by the host country, evaluates the needs and determines the necessary arrangements to supplement those provided by the host country.

The Preparatory Commission and Special Commission 4 received reports from the host country specifying the progress made in evaluating requirements and planning for the building and providing for the equipment needs of the Tribunal, including facilities and furnishings to be provided by it. The relevant documents and reports taken note of in this connection are identified in section 2 above. While these reports and the information provided do not contain precise descriptions as to furniture and equipment, the objective of the host country is to hand over a building in a state that is ready for use. This would include the equipment for heating, lighting, telephones, telefax, interpreters' booths, sanitary and electronic installations and ventilation equipment for special rooms. Storage, filing and cloakroom facilities in the relevant offices and basic furniture such as desks, filing equipment, trolleys, reception tables, soft furnishings, chairs, furniture for sittings and meeting rooms, archive and library shelving and equipment for the restaurant area are contemplated as coming within the furnished facility to be provided. It would not include such items as typewriters, copy machines and reading lights as well as special furniture, e.g., safes and private furnishings for the Caretaker's flat. The Meeting of States Parties would have to evaluate such items and the office and data-processing equipment and other operational accessories to be provided for.

CHAPTER VI. FIRST MEETING OF STATES PARTIES

Section 1. Provisional agenda and rules of procedure for the Meeting of States Parties

For the purpose of constituting the International Tribunal early to perform its central role in the settlement of disputes relating to the law of the sea following the entry into force of the Convention, it is desirable that the relevant decisions for the functioning of the Meeting of States Parties be taken and that it proceeds with the election of the members of the Tribunal.

Therefore

THE PREPARATORY COMMISSION submits:

1. The provisional agenda for the Meeting of States Parties prepared by the Secretariat, addendum 8 hereto;

2. The provisional rules of procedure for the Meeting of States Parties prepared by the Secretariat, 13/ addendum 9 hereto. It is understood that the provisional rules may be adopted for the conduct of its business and that they would be examined in due course with a view to the adoption of permanent rules of procedure for subsequent Meetings of States Parties.

Section 2. Election of the members of the Tribunal

In view of the requirement of the Convention that the first election of the members of the Tribunal shall be held within six months of the date of entry into force of this Convention, it is essential that the election should take place during the first Meeting of States Parties. The Secretary-General of the United Nations whose function it is, under article 4 of the Statute of the Tribunal, would issue the invitations to States Parties for the nomination of candidates for election as members of the Tribunal at least three months before the date of election, would prepare a list of all persons thus nominated to be submitted to States Parties within the time prescribed and would communicate the same to the Meeting of States Parties.

In connection with the geographical distribution and the representation of the principal legal systems among the members of the Tribunal in its composition and in the composition of its chambers, the Preparatory Commission expressed the view that firm and detailed rules should not be established by it. However, the principles to be applied in making such determinations would be needed. The Preparatory Commission considered it useful for relevant proposals and recommendations to be made for consideration by the Meeting of States Parties 14/ and the Secretariat was, therefore, requested to draw up a comparative table illustrating the alternatives for distribution of the six additional seats after fulfilling the minimum geographical representation requirement.

Therefore

The PREPARATORY COMMISSION submits for consideration:

> a comparative table illustrating alternatives for the distribution of the six additional seats among members of the Tribunal after fulfilling the minimum geographic representation requirement, prepared by the Secretariat, addendum 10 hereto.

13/ The Chairman's Statement to the Plenary (LOS/PCN/L.81, paras. 16 and 17).

14/ Refer SCN.4/L.1.

Annex I

LIST OF ADDENDA*

1. Final draft Rules of the Tribunal (prepared by the Secretariat as a revision of the revised draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) on the basis of the conclusions of the Special Commission)
2. Final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (prepared by the Secretariat as a revision of the revised draft Headquarters Agreement (SCN.4/WP.5/Rev.1) on the basis of the conclusions of the Special Commission)
3. Final draft Protocol on the Privileges and Immunities of the International Tribunal (prepared by the Secretariat as a revision of the revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1) on the basis of the conclusions of the Special Commission)
4. Final draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9) on the basis of the conclusions of the Special Commission)
5. Report on the deliberations and suggestions of the Special Commission concerning the principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (prepared by the Secretariat taking ...)
6. Final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the ...)
7. Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the ...)
8. Provisional agenda for the First Meeting of States Parties to the Convention, convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat)

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* The addenda are under preparation and will be issued as they become available.

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Addenda (continued)

9. **Provisional rules of procedure for the Meeting of States Parties (see LOS/PCN/L.81, paras. 15 and 17) (prepared by the Secretariat)**

10. **Comparative table illustrating alternatives for the distribution of the additional seats among members of the Tribunal after fulfilling the minimum geographic representation requirement (prepared by the Secretariat)**

Annex II

LIST OF ATTACHMENTS

DOCUMENTS OF SPECIAL COMMISSION 4

Working papers

LOS/PCN/SCN.4/WP.1	Practical arrangements for the establishment of the International Tribunal for the Law of the Sea. Working paper by the Secretariat	[16 March 1984]
LOS/PCN/SCN.4/WP.2	International Tribunal for the Law of the Sea Draft Rules of the Tribunal. Prepared by the Secretariat	[27 July 1984]
LOS/PCN/SCN.4/WP.2*	International Tribunal for the Law of the Sea Draft Rules of the Tribunal. Prepared by the Secretariat	[28 March 1985]
LOS/PCN/SCN.4/WP.2/Add.1	International Tribunal for the Law of the Sea Supplement to the draft Rules of the Tribunal. Addendum Prepared by the Secretariat	[25 March 1985]
LOS/PCN/SCN.4/WP.2/Add.1/ Corr.1 (Russian only)	Corrigendum	[7 April 1986]
LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)	International Tribunal for the Law of the Sea. Draft Rules of the Tribunal. Part I. Articles 1 to 93. Prepared by the Secretariat	[30 June 1986]
LOS/PCN/SCN.4/WP.2/Rev.1 (Part II)	International Tribunal for the Law of the Sea. Draft Rules of the Tribunal. Part II. Articles 94 to 140. Prepared by the Secretariat	[24 March 1987]
LOS/PCN/SCN.4/WP.3	International Tribunal for the Law of the Sea Table of concurrence of the draft Rules of the Tribunal. Prepared by the Secretariat	[18 March 1985]
LOS/PCN/SCN.4/WP.4	Headquarters Agreements and related instruments on Privileges and Immunities. (Issues for consideration)	[2 September 1986]

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* Reissued for technical reasons (Russian only).

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Working papers (continued)

LOS/PCN/SCN.4/WP.5 (Part I)	Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. *Prepared by the Secretariat*	[4 August 1987]
LOS/PCN/SCN.4/WP.5 (Part II)	Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. Part II (*Articles 17-28*) *Prepared by the Secretariat*	[26 February 1988]
LOS/PCN/SCN.4/WP.5/Rev.1	Revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. *Prepared by the Secretariat*	[8 August 1988]
LOS/PCN/SCN.4/WP.5/Rev.1/Corr.1	*Corrigendum*	[29 August 1988]
LOS/PCN/SCN.4/WP.6	Draft Convention/Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea. *Prepared by the Secretariat*	[23 March 1988]
LOS/PCN/SCN.4/WP.6/Rev.1	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea. *Prepared by the Secretariat*	[25 February 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.1 (English only)	*Corrigendum*	[27 February 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.2 (A/C/E/R/S only)	*Corrigendum*	[12 March 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.3 (Chinese only)	*Corrigendum*	[12 March 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.4 (French only)	*Corrigendum*	[18 March 1991]
LOS/PCN/SCN.4/WP.7	Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations. *Working paper by the Secretariat*	[20 March 1989]
LOS/PCN/SCN.4/WP.8	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea *Prepared by the Secretariat*	[27 February 1990]

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Working papers (continued)

LOS/PCN/SCN.4/WP.8/Add.1	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum. (Supplementary cost estimates reflecting alternatives as to official working languages) Prepared by the Secretariat	[28 March 1990]
LOS/PCN/SCN.4/WP.8/Add.1*	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum. (Supplementary cost estimates reflecting alternatives as to official working languages) (Prepared by the Secretariat)	[17 August 1990]
LOS/PCN/SCN.4/WP.8/Add.1/ Corr.1 (English only)	Corrigendum	[28 September 1990]
LOS/PCN/SCN.4/WP.8/Add.2	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum. (A scheme to phase in the establishment of the International Tribunal for the Law of the Sea) (Prepared by the Secretariat)	[29 August 1990]
LOS/PCN/SCN.4/WP.8/Add.2/ Corr.1	Corrigendum	[14 March 1991]
LOS/PCN/SCN.4/WP.9	Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. (Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea). Prepared by the Secretariat	[16 March 1990]
LOS/PCN/SCN.4/WP.9/Add.1	Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. Addendum. (Arrangements regarding the United Nations common system of salaries and benefits, and participation in the United Nations Joint Staff Pension Fund). Prepared by the Secretariat	[16 March 1990]
LOS/PCN/SCN.4/WP.10	Principles governing a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority (Prepared by the Secretariat)	[10 August 1990]

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* Reissued for technical reasons.

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Working papers (continued)

LOS/PCN/SCN.4/WP.11	Issues concerning the initial financing and budget of the International Tribunal for the Law of the Sea (Prepared by the Secretariat) [1 August 1991]
LOS/PCN/SCN.4/WP.12	Suggestions of the Latin American and Caribbean Group regarding languages of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2) [13 August 1992]
LOS/PCN/SCN.4/WP.13	Proposals submitted by Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland concerning the languages of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2) [18 August 1992]
LOS/PCN/SCN.4/WP.13/Corr.1	Corrigendum [1 September 1992]
LOS/PCN/SCN.4/WP.14	Draft outline for report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea [19 August 1992]

"L" documents

LOS/PCN/SCN.4/L.1	Chairman's summing up of the discussions [10 July 1984]
LOS/PCN/SCN.4/L.2	Chairman's summary of discussions on parts I and II of the draft Rules of the Tribunal [4 September 1984]
LOS/PCN/SCN.4/L.2/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. Addendum. Part III. Proceedings in disputes. Sections A, B and C [29 January 1985]
LOS/PCN/SCN.4/L.2/Add.1/ Corr.1 (C/E/F/R only)	Corrigendum [11 February 1985]
LOS/PCN/SCN.4/L.3	Chairman's summary of further discussions on the draft Rules of the International Tribunal for the Law of the Sea [3 April 1985]

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"L" documents (continued)

LOS/PCN/SCN.4/L.3/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. *Addendum*. *Part III. Proceedings in disputes*. *Section D. Incidental proceedings*	[27 June 1985]
LOS/PCN/SCN.4/L.4	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea	[3 September 1985]
LOS/PCN/SCN.4/L.4/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. *Addendum*. *Prompt release of vessels and crews (document LOS/PCN/SCN.4/WP.2/Add.1*)	[24 February 1986]
LOS/PCN/SCN.4/L.5	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea	[9 April 1986]
LOS/PCN/SCN.4/L.5/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. *Addendum*	[7 August 1986]
LOS/PCN/SCN.4/L.6	Brief progress report on the preparations for the housing of the International Tribunal for the Law of the Sea in Hamburg. *Submitted by the delegation of the Federal Republic of Germany*	[2 September 1986]
LOS/PCN/SCN.4/L.7	Chairman's summary of discussions on the revised draft Rules of the International Tribunal for the Law of the Sea	[4 September 1986]
LOS/PCN/SCN.4/L.7/Add.1	Chairman's summary of discussions on the revised draft Rules of the International Tribunal for the Law of the Sea. *Addendum*. *Part IV. Proceedings in disputes*	[31 March 1987]
LOS/PCN/SCN.4/L.8	Second report on practical arrangements for the installation of the International Tribunal for the Law of the Sea at Hamburg *Submitted by the delegation of the Federal Republic of Germany*	[31 March 1987]
LOS/PCN/SCN.4/L.9	Chairman's summary of discussions on the Headquarters Agreement and related instruments on privileges and immunities	[14 April 1987]

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"L" documents (continued)

LOS/PCN/SCN.4/L.9/Add.1	Chairman's summary of discussions. Addendum. Revised draft Rules of the International Tribunal for the Law of the Sea [20 August 1987]
LOS/PCN/SCN.4/L.10	Chairman's summary of discussions. Revised draft Rules of the International Tribunal for the Law of the Sea [19 February 1988]
LOS/PCN/SCN.4/L.10/Add.1	Chairman's summary of discussions. Addendum. Revised draft Rules of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I) [14 August 1989]
LOS/PCN/SCN.4/L.10/Add.1/Corr.1	Corrigendum [31 August 1989]
LOS/PCN/SCN.4/L.11	Chairman's summary of discussions. Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany [3 March 1988]
LOS/PCN/SCN.4/L.11/Add.1	Chairman's summary of discussions. Addendum. Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5 (Parts I and II)) [15 June 1988]
LOS/PCN/SCN.4/L.12	Report of the Chairman on the visit by the Bureau of Special Commission 4 and officials of the United Nations Secretariat to the Federal Republic of Germany (24-28 August 1987) [21 March 1988]
LOS/PCN/SCN.4/L.13	Chairman's summary of discussions. Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea [18 January 1989]
LOS/PCN/SCN.4/L.13/Add.1	Chairman's summary of discussions. Addendum. [14 March 1990]
LOS/PCN/SCN.4/L.14	Chairman's summary of discussions. Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea [27 March 1990]
LOS/PCN/SCN.4/L.15	Chairman's summary of discussions. Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea [20 February 1991]

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"L" documents (continued)

LOS/PCN/SCN.4/L.16	Building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg (Report of the German Delegation)	[9 March 1992]
LOS/PCN/SCN.4/L.16/Add.1	Building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg (Submitted by the delegation of Germany)	[17 August 1992]

Conference room papers

LOS/PCN/SCN.4/1984/CRP.1/ Rev.1	Agenda for Special Commission 4	[29 March 1984]
LOS/PCN/SCN.4/1984/CRP.2	Suggestions of the Bureau	[27 March 1984]
LOS/PCN/SCN.4/1984/CRP.3	Extract from statement by the Chairman. The composition of the Tribunal and its chambers	[28 March 1984]
LOS/PCN/SCN.4/1984/CRP.3/ Corr.1	Corrigendum	[30 March 1984]
LOS/PCN/SCN.4/1984/CRP.4	Statement by the Chairman. Access by entities other than States	[4 April 1984]
LOS/PCN/SCN.4/1984/CRP.5	Statement by the Chairman on the question of advisory opinions	[10 April 1984]
LOS/PCN/SCN.4/1985/CRP.6	Suggested redraft of article 62, paragraph 3, in document LOS/PCN/SCN.4/WP.2	[20 March 1985]
LOS/PCN/SCN.4/1985/CRP.7	Suggested redraft of article 79, paragraph 4, in document LOS/PCN/SCN.4/WP.2	[27 March 1985]
LOS/PCN/SCN.4/1985/CRP.8	Privileges and immunities of the Tribunal. Statement by the Special Representative of the Secretary-General for the Law of the Sea	[29 March 1985]
LOS/PCN/SCN.4/1985/CRP.9	Privileges and immunities of the Tribunal. Statement by the Chairman	[1 April 1985]
LOS/PCN/SCN.4/1985/CRP.10	Suggested redraft of article 84, paragraphs 2, 3, 4 (LOS/PCN/SCN.4/WP.2)	[2 April 1985]
LOS/PCN/SCN.4/1985/CRP.11	Explanatory statement by the Secretary on Supplement to the draft Rules of the Tribunal on the Prompt Release of Vessels and Crews (LOS/PCN/SCN.4/WP.2/Add.1)	[2 April 1985]

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Conference room papers (continued)

LOS/PCN/SCN.4/1985/CRP.12	Suggested redraft of article 98 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[29 August 1985]
LOS/PCN/SCN.4/1985/CRP.13	Suggested redraft of article 108 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[29 August 1985]
LOS/PCN/SCN.4/1985/CRP.14	Suggested redraft of articles 110-112 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[29 August 1985]
LOS/PCN/SCN.4/1986/CRP.15	Suggested redraft of articles 4 (1) and 9 (5) in document LOS/PCN/SCN.4/WP.2	[21 March 1986]
LOS/PCN/SCN.4/1986/CRP.16	Suggested redraft of article 129 (1) in document LOS/PCN/SCN.4/WP.2	[27 March 1986]
LOS/PCN/SCN.4/1986/CRP.17	Suggested redraft of preamble in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[4 April 1986]
LOS/PCN/SCN.4/1986/CRP.18	Suggested redraft of articles 64 and 84 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[4 April 1986]
LOS/PCN/SCN.4/1986/CRP.19	Preliminary information on the establishment of facilities for international courts or tribunals. Prepared by the Secretariat	[8 April 1986]
LOS/PCN/SCN.4/1986/CRP.19/ Corr.1 (Chinese only)	Corrigendum	[8 April 1986]
LOS/PCN/SCN.4/1986/CRP.20	Suggested redraft of article 1 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Prepared by the Secretariat	[18 August 1986]
LOS/PCN/SCN.4/1986/CRP.21	Informal proposal by the Bureau	[4 September 1986]
LOS/PCN/SCN.4/1987/CRP.22	Suggested redraft of articles 89 to 91 and 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Submitted by the delegation of the Union of Soviet Socialist Republics	[5 August 1987]
LOS/PCN/SCN.4/1988/CRP.23	Informal suggested redraft of article 89, paragraph 4, in document LOS/PCN/SCN.4/WP.2/Rev.1 (Part I) Subsection 2. Prompt release of vessels and crews. Proposed by the Secretariat	[31 March 1988]

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Conference room papers (continued)

LOS/PCN/SCN.4/1988/CRP.23/Rev.1	Informal suggested redraft of article 89, paragraph 4 (document LOS/PCN/SCN.4/WP.2/Rev.1 (Part I) Subsection 2. Prompt release of vessels and crews. Proposed by the Secretariat	[7 July 1988]
LOS/PCN/SCN.4/1988/CRP.24	Informal suggestion relating to the draft Convention/Protocol on Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6). Submitted by the delegation of the Federal Republic of Germany	[31 March 1988]
LOS/PCN/SCN.4/1988/CRP.25	Suggested redraft of article 91 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Submitted by the delegations of Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland	[19 August 1988]
LOS/PCN/SCN.4/1988/CRP.26	Informal suggested redraft of article 6 (LOS/PCN/SCN.4/WP.6). Submitted by the delegation of Australia	[19 August 1988]
LOS/PCN/SCN.4/1988/CRP.27	Informal suggested redraft of article 7 (LOS/PCN/SCN.4/WP.6). Submitted by the delegation of Switzerland	[22 August 1988]
LOS/PCN/SCN.4/1988/CRP.28	Suggested redraft of article 91 in document LOS/PCN/SCN.4/WP.2/Rev.1 (Part I) (Prepared by the Secretariat)	[26 August 1988]
LOS/PCN/SCN.4/1988/CRP.28/Corr.1 (French only)	Corrigendum	[30 August 1988]
LOS/PCN/SCN.4/1988/CRP.29	Suggested redraft of article 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Submitted by the delegation of Greece on behalf of the delegations of Belgium, Denmark, France, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland	[30 August 1988]
LOS/PCN/SCN.4/1988/CRP.30	Suggested redraft of article 91 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Submitted by the delegation of the United Republic of Tanzania on behalf of the Group of 77	[30 August 1988]

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Conference room papers (continued)

LOS/PCN/SCN.4/1989/CRP.31	Proposal submitted by France regarding the draft Convention/Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6)	[9 March 1989]
LOS/PCN/SCN.4/1989/CRP.32	Suggested redraft of article 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)). *Submitted by the delegation of Japan*	[14 March 1989]
LOS/PCN/SCN.4/1989/CRP.33	Suggested redraft of article 14 *bis* (LOS/PCN/SCN.4/WP.6). *Submitted by the delegation of the Ukrainian Soviet Socialist Republic*	[21 March 1989]
LOS/PCN/SCN.4/1989/CRP.34	*Belgium*: Proposals relating to the draft Convention on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6)	[16 August 1989]
LOS/PCN/SCN.4/1989/CRP.35	Suggested article 16 *bis* (LOS/PCN/SCN.4/WP.6). *Submitted by the delegation of the Federal Republic of Germany*	[16 August 1989]
LOS/PCN/SCN.4/1989/CRP.36	Indicative list of issues specific to relationship agreements between the International Tribunal for the Law of the Sea and the United Nations, the International Seabed Authority, the International Court of Justice and specialized agencies of the United Nations with relevant competences. (*Note by the Secretariat*)	[28 August 1989]
LOS/PCN/SCN.4/1989/CRP.37	Suggested redraft of article 90, paragraph 1, and article 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)). *Submitted by the delegation of the United Republic of Tanzania on behalf of the Group of 77; the delegation of France on behalf of the delegations of Belgium, Denmark, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland; the delegation of Japan; and the delegation of the Union of Soviet Socialist Republics*	[29 August 1989]
LOS/PCN/SCN.4/1990/CRP.38	Informal proposal of the Bureau. Organization of the future work of Special Commission 4	[23 March 1990]

Conference room papers (continued)

LOS/PCN/SCN.4/1991/CRP.39	Status of work in Special Commission 4 [8 March 1991]
LOS/PCN/SCN.4/1991/CRP.40	Report on the progress of work dated 13 March 1991 concerning the building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg. Statement of the Parliamentary State-Secretary, H.E. Mr. Rainer Funke, Ministry of Justice of the Federal Republic of Germany [15 March 1991]
LOS/PCN/SCN.4/1991/CRP.41	Proposals submitted by Switzerland regarding the revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) [16 August 1991]
LOS/PCN/SCN.4/1991/CRP.42	Proposals submitted by Switzerland concerning the revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) [22 August 1991]
LOS/PCN/SCN.4/1991/CRP.43	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) Redraft of pending articles (Submitted by the Secretariat) [27 August 1991]
LOS/PCN/SCN.4/1991/CRP.44	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) Redraft of article 12 (Submitted by the Secretariat) [28 August 1991]
LOS/PCN/SCN.4/1992/CRP.45	Suggested redraft of article 32* in document LOS/PCN/SCN.4/WP.5/Rev.1 (Submitted by the Secretariat) [6 March 1992]
LOS/PCN/SCN.4/1992/CRP.46	Proposed amendments to article 1 (d) and article 23 (1) of document LOS/PCN/SCN.4/WP.6/Rev.1 (Proposed by the delegation of Senegal) [10 March 1992]

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* To replace article 32, paras. 1 and 2.

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Conference room papers (continued)

LOS/PCN/SCN.4/1992/CRP.47	Comments submitted by the European Community and its member States on the draft outline for report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.14) [1 February 1993]

Plenary documents of particular relevance to Special Commission 4

LOS/PCN/27	Suggestions by the Chairman adopted at the 5th plenary meeting of the Commission on 8 September 1983 [8 September 1983]
LOS/PCN/80	Letter dated 9 February 1987 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea [12 March 1987)
LOS/PCN/106	Letter dated 15 March 1989 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea [17 March 1989)
LOS/PCN/L.4	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [12 April 1984]
LOS/PCN/L.12	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [4 September 1984]
LOS/PCN/L.17	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [2 April 1985]
LOS/PCN/L.24	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [3 September 1985]
LOS/PCN/L.24/Corr.1 (Arabic and English only)	Corrigendum [3 September 1985]
LOS/PCN/L.33	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [10 April 1986]

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LOS/PCN/L. (continued)

LOS/PCN/L.39	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[4 September 1986]
LOS/PCN/L.47	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[14 April 1987]
LOS/PCN/L.53	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[20 August 1987]
LOS/PCN/L.61	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[6 April 1988]
LOS/PCN/L.66	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[31 August 1988]
LOS/PCN/L.71	Statement to the plenary by the Acting Chairman of Special Commission 4 on the progress of work in that Commission	[21 March 1989]
LOS/PCN/L.71/Corr.1	Corrigendum	[10 May 1989]
LOS/PCN/L.76	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[31 August 1989]
LOS/PCN/L.81	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[29 March 1990]
LOS/PCN/L.86	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[30 August 1990]
LOS/PCN/L.91	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[21 March 1991]
LOS/PCN/L.96	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[29 August 1991]
LOS/PCN/L.101	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission	[11 March 1992]

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LOS/PCN/L. (continued)

LOS/PCN/L.103	Progress report of the Chairman of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea on the work of the Commission [7 July 1992]
LOS/PCN/L.107	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [20 August 1992]
LOS/PCN/L.108	Statement by the Chairman of the Preparatory Commission [20 August 1992]

Other documents of Special Commission 4 to be issued

Chairman's summary of discussions on the revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5/Rev.1 and Corr.1).

Chairman's summary of discussions on the revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1 and Corr.1 and 2).

Chairman's summary of discussions on the use of the United Nations laissez-passer by the Tribunal and its officials.

Chairman's summary of discussions on the principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (SCN.4/WP.10).

Chairman's summary of discussions on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (SCN.4/WP.8); Addendum: Supplementary cost estimates reflecting alternatives as to official working languages (SCN.4/WP.8/Add.1 and Corr.1); Addendum: Scheme to phase in the establishment of the International Tribunal for the Law of the Sea (SCN.4/WP.8/Add.2 and Corr.1).

LOS/PCN/SCN.4/WP.16
12 October 1993

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY AND
FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA

PROVISIONAL REPORT OF SPECIAL COMMISSION 4

(DRAFT REPORT OF THE PREPARATORY COMMISSION UNDER PARAGRAPH 10 OF RESOLUTION I CONTAINING RECOMMENDATIONS FOR SUBMISSION TO THE MEETING OF STATES PARTIES TO BE CONVENED IN ACCORDANCE WITH ANNEX VI, ARTICLE 4, OF THE CONVENTION REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA)

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Introductory note

1. Pursuant to resolution I, the Preparatory Commission shall remain in existence until the conclusion of the first session of the Assembly of the Authority. The Preparatory Commission decided on the matters to be dealt with by the Plenary and the Special Commissions as allocated,* and Special Commission 4 was allocated the preparation of recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea.** Having delegated this function to Special Commission 4, the Preparatory Commission reserved to the Plenary the presentation of its report through its Chairman on the arrangements for the establishment of the International Tribunal for the Law of the Sea to the Meeting of States Parties convened for the purpose.*** Consequently, and as decided by Special Commission 4, the present report is provisional. It is the product of the deliberations and decisions of Special Commission 4 in carrying out its mandate. It reflects the results achieved so far and makes reference to issues which remain pending. While reflecting the results, the report should in no way be interpreted as precluding the further consideration of the pending issues.

2. The present provisional report and the addenda, upon their review and approval, will constitute the Report of the Preparatory Commission under paragraph 10 of resolution I of the Third United Nations Conference on the Law of the Sea, to be presented to the Meeting of States Parties. The component reports and final working papers which reflect the results of the work of Special Commission 4, whether formulated by it or at its request, listed as addenda would be an integral part thereof.

3. Following the issuance of the draft outline for the report (LOS/PCN/SCN.4/WP.14), the Preparatory Commission at its tenth-session summer meeting in New York invited participating States to submit their comments on the draft provisional reports of the four Special Commissions and the informal Plenary. The draft report presented as LOS/PCN/SCN.4/WP.15 was formulated pursuant to that decision and took into account the comments received with respect to LOS/PCN/SCN.4/WP.14. The present provisional report of Special Commission 4 takes account of the deliberations and decisions of the Special Commission at the eleventh session on the basis of draft report LOS/PCN/SCN.4/WP.15. In reviewing the draft report, the Special Commission, _inter alia_, noted that some issues were pending.

4. Pending issues on which no agreement was reached are:

(a) Whether there should be one or two or six official working languages of the Tribunal, and consequently what treatment would be accorded to the other languages;

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* LOS/PCN/3, para. 2.

** LOS/PCN/27, annex I, para. 1 (d).

*** LOS/PCN/27, annex I, sect. II (e).

(b) How the scheme for phasing in the Tribunal should be applied.

5. As regards the question of languages, the resolution of the issue would require consequential review and determination regarding the Final Draft Rules of the International Tribunal for the Law of the Sea (Addendum 1); the Final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (Addendum 6); and the Report with proposals concerning the initial financing and budget of the International Tribunal for the Law of the Sea (Addendum 7). Similarly, the manner of application of a scheme for phasing in of the Tribunal would require consequential review and determinations regarding the Final Draft Rules of the Tribunal (Addendum 1); and the Report with proposals concerning the initial financing and budget of the International Tribunal for the Law of the Sea (Addendum 7).

6. A separate list of attachments in the present provisional report (see annex II) identifies the relevant core documentation of the Special Commission and of the Preparatory Commission which are considered essential to providing a faithful record of the work of the Special Commission, its deliberation and its conclusions and decisions which led to the preparation and presentation of the draft report.

7. When the Plenary, at the eleventh session, took up the draft report on the arrangements for the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.15) for consideration, it was noted that, as in the case of the draft provisional report of the Plenary (document LOS/PCN/WP.52), there was inadequate time to consider the addenda to the report at the session. Consequently it was decided that delegates would be allowed to transmit their comments on the addenda and that the comments received from delegations would be attached to the reports as annexes thereto.

CONTENTS

Page

INTRODUCTION 402

CHAPTER I. JUDICIAL PROCEDURE 403

Section 1. Recommendations concerning the draft Rules of the Tribunal 403

Section 2. Composition of the Tribunal and its chambers 404

Section 3. Official working languages 404

Section 4. Harmonization of jurisprudence 404

Section 5. Internal judicial practice 405

Section 6. Access by States not parties to the Convention 405

CHAPTER II. INTERNATIONAL AGREEMENTS 405

Section 1. Recommendations concerning the draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany 405

Section 2. Recommendations concerning the draft Protocol on the Privileges and Immunities of the Tribunal 406

CHAPTER III. RELATIONSHIP ARRANGEMENTS 407

Section 1. Recommendations concerning relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea 407

Section 2. Use of the United Nations laissez-passer by the Tribunal 408

Section 3. Relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority 408

Section 4. Supplementary arrangements between the International Tribunal for the Law of the Sea and the International Court of Justice 409

/...

CONTENTS (continued)

Page

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS 409

Section 1. Recommendations concerning administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea

and

Recommendations concerning the scheme for the initial phasing-in of the establishment of the International Tribunal for the Law of the Sea 409

Section 2. Draft financial rules and staff regulations 410

Section 3. Initial financing and budget of the International Tribunal for the Law of the Sea 410

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA 411

Section 1. Recommendations concerning the location and site for the headquarters of the International Tribunal for the Law of the Sea 411

Section 2. Recommendations concerning the building requirements and facilities of the International Tribunal for the Law of the Sea provided by the host country 411

Section 3. Recommendations concerning the requirements and facilities necessary to supplement those provided by the host country 413

CHAPTER VI. FIRST MEETING OF STATES PARTIES 413

Section 1. Provisional agenda and rules of procedure for the Meeting of States Parties 413

Section 2. Election of the members of the Tribunal 414

Annexes

I. List of addenda 415

II. List of attachments 417

INTRODUCTION

1. The present report reflects the work of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in making practical arrangements for the establishment of the International Tribunal for the Law of the Sea. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea, which contains the Statute of the Tribunal in annex VI thereto. Resolution I adopted with the Convention by the Third United Nations Conference on the Law of the Sea established the Preparatory Commission and mandated it, inter alia, to prepare a report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea for submission to the Meeting of States Parties to be convened in accordance with the Statute of the Tribunal. 1/ The Preparatory Commission established at its first session, besides its Plenary and the General Committee, four Special Commissions. Special Commission 4 was charged with the preparation of the report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea. 2/ The Preparatory Commission elected Dr. Gunter Goerner (German Democratic Republic) as Chairman of Special Commission 4 and he served from the first session in 1983 to the eighth session in 1990. 3/ On 25 February 1991, the Preparatory Commission elected Mr. Anton Bouteiko (Ukraine) to replace him. Colombia, Greece, Philippines and Sudan were elected as Vice-Chairmen of the Special Commission, constituting, with its Chairman, the Bureau. Dr. Theodore Chalkiopoulos (Greece), Vice-Chairman, acted as Chairman in the absence of the Chairman at the seventh session of the Preparatory Commission held at Kingston, 4/ at the eighth session held in New York 5/ and at the tenth session in Kingston and in New York. 6/

1/ Annex VI, article 4.

2/ See resolution I, para. 10; and LOS/PCN/27, annex.

3/ He served until the accession of the German Democratic Republic to the Federal Republic of Germany.

4/ The seventh session was held at Kingston, Jamaica, from 27 February 1989 to 23 March 1989.

5/ The resumed eighth session was held in New York from 13 to 31 August 1990.

6/ The tenth session was held at Kingston, Jamaica, from 24 February 1992 to 13 March 1992 and the summer meeting from 10 to 21 August 1992 in New York.

2. The Special Commission adopted its provisional agenda contained in SCN.4/1984/CRP.1 and Rev.1. [7] Its mandate was initially elaborated in SCN.4/WP.1. When considering its work programme the Commission first decided to take up the items listed in paragraph 3 of SCN.4/WP.1, with the addition of Relationship Agreements as referred to in part II of that working paper. The Commission also expressed the need to prepare rules for the Meeting of States Parties and recommendations for the election of members of the Tribunal. It did not consider it appropriate to prepare a comprehensive list of issues and items for its programme of work since additional items might be considered necessary as work progressed. For each session of the Preparatory Commission, the requirements for the programme of work were further elaborated as necessary and priorities established by the Special Commission on the recommendation of its Bureau and the initiative of its Chairman. The method of work was also established and the Commission dealt with the items under its work programme on that basis.

3. The Special Commission prepared the draft outline for the report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (SCN.4/WP.14) which was the basis for its consideration of the recommendations of the Preparatory Commission to the Meeting of States Parties. Taking into account the comments received from participating States on the draft outline contained in SCN.4/WP.14, the draft report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea as contained herein was considered by the Special Commission. With the adoption by the Preparatory Commission of the present draft report, the final stage in the establishment of the International Tribunal for the Law of the Sea has been commenced with the preparation for the first Meeting of States Parties to the Convention prior to the inauguration of the Tribunal.

CHAPTER I. JUDICIAL PROCEDURE

Section 1. Recommendations concerning the draft Rules of the Tribunal

For the purpose of preparing for the International Tribunal to perform its judicial functions at the earliest possible time after entry into force of the Convention, it is desirable that the Meeting of States Parties facilitates the adoption of the rules of the Tribunal.

Therefore

THE PREPARATORY COMMISSION recommends that:

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[7] References to documents of Special Commission 4 are abbreviated throughout this paper for convenience. It should be noted that they all require the prefix LOS/PCN for complete reference purposes. The documents of Special Commission 4 referred to herein are attached hereto and are more fully identified in the list of attachments.

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> the final draft Rules of the Tribunal formulated by the Commission and its Special Commission 4, addendum 1 hereto, should provide the basis for the determination by the Tribunal of its rules of procedure.

The Special Commission first considered the requirements for the procedural rules of the Tribunal and examined the items listed in SCN.4/WP.1. Account was taken of SCN.4/1984/CRP.2-5 in this connection. Thereafter, the draft Rules of the Tribunal (SCN.4/WP.2); and the supplement to the draft Rules of the Tribunal - on the Prompt Release of Vessels and Crews (SCN.4/WP.2/Add.1): working papers prepared by the Secretariat, were examined by the Special Commission, taking into account the table of concurrence of the draft Rules of the Tribunal (SCN.4/WP.3) and the draft texts proposed for specific provisions (SCN.4/1985/CRP.6, SCN.4/1985/CRP.7-10 and 12-14, SCN.4/1986/CRP.15-18) as reflected in the Chairman's summaries of discussions (SCN.4/L.2 and Add.1 and Add.1/Corr.1, L.3 and Add.1, L.4 and Add.1, L.5 and Add.1).

Thereafter the Special Commission considered the revision of the draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) prepared by the Secretariat, taking into account the draft texts proposed for specific provisions (SCN.4/1986/CRP.20, SCN.4/1987/CRP.22, SCN.4/1988/23 and Rev.1, 25, 28-30, SCN.4/1989/32 and 37), as reflected in the Chairman's summaries of discussions (SCN.4/L.7 and Add.1, L.9/Add.1, L.10 and Add.1 and Add.1/Corr.1). The Special Commission decided (LOS/PCN/L.53, para. 9) that the Secretariat would formulate the Final Draft Rules of the Tribunal, addendum 1 hereto.

Section 2. Composition of the Tribunal and its chambers

In connection with the equitable geographical distribution and the representation of the principal legal systems in the composition of the Tribunal and its chambers, the Special Commission expressed the view that firm and detailed rules should not be established by the Preparatory Commission. The deliberations of the Special Commission in this connection are reflected in chapter VI, section 2, below.

Section 3. Official working languages

The Special Commission exchanged views on the official languages and those in which its pleadings and judgments would be issued as reflected in the Chairman's summary of discussions (SCN.4/L.14, pp. 10 and 11); Chairman's Statement to the Plenary (LOS/PCN/L.86, paras. 6-8); and proposals submitted by delegations (SCN.4/WP.12 and 13). Chapter IV, section 1, below also deals with this question. No agreement was reached among delegations regarding the official working languages of the Tribunal.

Section 4. Harmonization of jurisprudence

The need to provide a means to achieve harmonization of the jurisprudence of the Tribunal and its chambers was considered. A proposal was made as to how this can be achieved and the deliberations of the Preparatory Commission are reflected in the Chairman's summary of discussions (SCN.4/L.3, paras. 99-100).

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Section 5. Internal judicial practice

The draft Rules of the Tribunal recognize the requirement for a resolution to be formulated by the Tribunal on its internal judicial practice in a manner consistent with the practice of the International Court of Justice. The deliberations of the Special Commission in this connection are reflected in the Chairman's summary of discussions (SCN.4/L.7, paras. 27-30).

Section 6. Access by States not parties to the Convention

The terms for access to the Tribunal by States not parties to the Convention would, as necessary, be elaborated by the Tribunal in accordance with annex VI taking into account, where appropriate, the practice of the International Court of Justice regarding the participation of States Parties to the Statute of the Court which are not States Members of the United Nations, as provided in General Assembly resolution 91 (I) of 11 December 1946.

CHAPTER II. INTERNATIONAL AGREEMENTS

Section 1. Recommendations concerning the draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany

For the purpose of preparing for the International Tribunal to function at the seat of the Tribunal in Germany, it is desirable that the Meeting of States Parties facilitates the Tribunal and the host country entering into a headquarters agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, formulated by the Commission and its Special Commission 4, addendum 2 hereto, should provide the basis for negotiating and entering into such an agreement.

The Special Commission first discussed the requirements for a headquarters agreement (SCN.4/WP.1, para. 7). It also discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work. These discussions took into account the items listed in SCN.4/WP.1, paras. 3 and 5 to 7. Account was also taken of SCN.4/WP.4, which identifies issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9). Thereafter, a draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5, Parts I and II) was prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.47) and deliberated on, as reflected in the Chairman's summary of discussions (SCN.4/L.11 and Add.1).

A revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5/Rev.1 and Corr.1) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions and the suggestions of a drafting nature, and providing compromise texts on issues where agreement was not reached, was considered and approved by the Special Commission in accordance with its deliberations. 8/

The Special Commission decided that the Secretariat would formulate the final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, addendum 2 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.101, para 4; SCN.4/1992/CRP.45) and harmonized to the extent possible with the final draft revised Protocol on the Privileges and Immunities of the Tribunal. 9/

Section 2. Recommendations concerning the draft Protocol on the Privileges and Immunities of the Tribunal

For the purpose of providing the requisite privileges and immunities for the effective functioning of the International Tribunal, it is desirable that the Meeting of States Parties adopts an international protocol that may be adhered to by all States.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea, formulated by the Commission and its Special Commission 4, addendum 3 hereto, should provide the basis for negotiating and entering into such a protocol.

The Commission discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work, taking into account the items listed in SCN.4/WP.1, paragraphs 3 and 5 to 7. Account was also taken of SCN.4/WP.4, which identified issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9).

Thereafter, a draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6) was prepared by the Secretariat at the request of the Commission (LOS/PCN/L.53, para. 19 (c)). This working paper was reviewed article by article by the Special Commission, as reflected in the Chairman's summary of discussions (SCN.4/L.13 and Add.1).

8/ Reflected in the Chairman's summary of discussions (to be issued).

9/ See the requirement recorded in paragraph 38 of the Final Act of the Third United Nations Conference on the Law of the Sea (A/CONF.62/121).

/...

Subsequently, a revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1 and Corr.1 and 2) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions (SCN.4/1988/CRP.24, 26 and 27; SCN.4/1989/CRP.31 and 33-35), and the suggestions of a drafting nature, and providing compromise texts on issues where agreement was not reached (LOS/PCN/L.91, para. 10), was considered and formulated by the Special Commission in accordance with its deliberations. 10/

CHAPTER III. RELATIONSHIP ARRANGEMENTS

Section 1. Recommendations concerning relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea

In order to enable the International Tribunal and the United Nations to have and develop a relationship of effective cooperation, thereby facilitating the objectives of the Tribunal and the United Nations, it is desirable that the Meeting of States Parties facilitates the Tribunal and the United Nations entering into a relationship agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea, formulated by the Commission and its Special Commission 4, addendum 4 hereto, should provide the basis for negotiating and entering into such an agreement.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8-12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7), prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)), were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The draft relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9 and Add.1), prepared by the Secretariat pursuant to the request of the Special Commission (LOS/PCN/L.76, para. 12 (b)), was reviewed by the Special Commission, as reflected in the Chairman's summary of discussions (SCN.4/L.15). The final draft Relationship Agreement between the United Nations and the International Tribunal for the Law of the Sea was formulated by the Secretariat, addendum 4 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.107)

10/ Reflected in the Chairman's summary of discussions (to be issued).

/...

with due consideration for the views expressed in the Commission regarding the need for maximum economy in establishing the Tribunal and its functioning while maintaining the highest possible level of efficiency (LOS/PCN/L.86, para. 5).

Section 2. Use of the United Nations laissez-passer by the Tribunal

The use of the United Nations laissez-passer by the Tribunal and its officials was considered by the Special Commission in its deliberations, as reflected in the Chairman's summary of discussions (SCN.4/L.11/Add.1). 11/

Section 3. Relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority

For the purpose of addressing the role of the Tribunal in relation to the activities of the International Seabed Authority, it is desirable that an appropriate relationship arrangement be entered into between them.

Therefore

THE PREPARATORY COMMISSION submits:

> a report on the deliberations and suggestions of the Special Commission concerning the principles governing relationship arrangements between the International Tribunal and the International Seabed Authority, prepared by the Secretariat, addendum 5 hereto.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8-12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7), prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)), were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The working paper on principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (SCN.4/WP.10), prepared by the Secretariat was reviewed by the Special Commission. 12/

11/ Further discussions reflected in the Chairman's summary of discussions (to be issued).

12/ The deliberations and suggestions of the Special Commission are reflected in the Chairman's summary of discussions (to be issued).

Section 4. Supplementary arrangements between the International Tribunal for the Law of the Sea and the International Court of Justice

Supplementary arrangements between the Tribunal and the International Court of Justice were not formulated by the Special Commission. Consequent upon the communication from the Registrar of the International Court of Justice, the Special Commission decided that it would not be appropriate for it to consider such relationship arrangements.

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS

Section 1. Recommendations concerning administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea

and

Recommendations concerning the scheme for the initial phasing-in of the establishment of the International Tribunal for the Law of the Sea

The degree to which the Tribunal can fulfil its purposes will be determined by its institutional structure, the effectiveness of its administration, including budgetary and personnel matters, and the efficiency of its services.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea, prepared by the Secretariat, addendum 6 hereto, should provide the basis for the deliberations and determination of the Meeting of States Parties.

The working paper titled "Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (SCN.4/WP.8), prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12 (a)), was based on the organizational structure of the Tribunal as set out in the Convention and taking into account the structure of existing international tribunals and courts and their experiences based on the use of two working languages, with the pleadings and judgments to be issued in all six working languages of the United Nations after completion of each application, case or advisory opinion. The addendum, "Supplementary cost estimates reflecting alternatives as to one or six official working languages" (SCN.4/WP.8/Add.1 and Corr.1), and the further addendum, "Scheme to phase in the establishment of the International Tribunal for the Law of the Sea" (SCN.4/WP.8/Add.2 and Corr.1), were also prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12 (a)). While no conclusions were reached, the deliberations of the Special Commission were

/...

reflected in the Chairman's summary of discussions (SCN.4/L.14 and LOS/PCN/L.81, paras. 5-9). 13/

The Special Commission decided to formulate for the Meeting of States Parties the final draft working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea, addendum 6 hereto, on the basis of the decision of the Special Commission (LOS/PCN/L.91, para. 8), containing relevant elements relating to the scheme for phasing in the establishment of the Tribunal and the alternative schemes concerning the implications of the number of official languages and working languages.

As regards the languages of the Tribunal, the Commission conducted an exchange of views, as reflected in the Chairman's statement to the plenary (LOS/PCN/L.86, paras. 6-8), and informal consultations were conducted among delegations on this question. Subsequently, proposals were submitted by the delegation of Cuba on behalf of the Group of Latin American and Caribbean Countries (SCN.4/WP.12) and by the delegations of Austria, Belgium, Canada, Côte d'Ivoire, Czechoslovakia, France, Greece, India, Poland, Senegal, Switzerland and Tunisia (SCN.4/WP.13 and Corr.1). No agreement was reached among delegations regarding the official working languages of the Tribunal.

Section 2. Draft financial rules and staff regulations

As regards the principles to govern the financial rules of the Tribunal and its staff regulations, it was the understanding of the Special Commission that the Secretariat would prepare the requisite documentation to be submitted to the Meeting of States Parties for its consideration (LOS/PCN/L.81, paras. 15-17).

Section 3. Initial financing and budget of the International Tribunal for the Law of the Sea

For the early functioning of the Tribunal and in order to ensure the requisite financing, it is desirable that the Meeting of States Parties determines an appropriate arrangement.

Therefore

THE PREPARATORY COMMISSION submits:

> a report with proposals concerning the initial financing and budget of the International Tribunal for the Law of the Sea prepared by the Secretariat, addendum 7 hereto, for the deliberations and determination of the Meeting of States Parties.

13/ The further deliberations of the Special Commission are reflected in the Chairman's summary of discussions (to be issued).

The working paper (SCN.4/WP.11) prepared by the Secretariat at the request of the Special Commission (LOS/PCN/L.91) was based on existing precedents and experiences in establishing international organizations. The Commission reviewed the working paper. 11/ The Special Commission decided to formulate a report with proposals concerning the initial financing and budget of the International Tribunal for the Law of the Sea, addendum 7 hereto, based on the deliberations of the Special Commission and containing relevant elements relating to the scheme for phasing in the Tribunal, as decided by the Special Commission (LOS/PCN/L.107).

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Section 1. Recommendations concerning the location and site for the headquarters of the International Tribunal for the Law of the Sea

For the purpose of preparing for the International Tribunal for the Law of the Sea to establish its permanent headquarters at the site offered by the host country, in an appropriate environment, it is desirable that the Meeting of States Parties endorses the arrangements for the same.

Therefore

THE PREPARATORY COMMISSION, having taken note that:

> the host country, Germany, has notified the Commission that the location of the permanent headquarters of the Tribunal would be at the site offered in the Free and Hanseatic City of Hamburg, situated in the Nienstedten suburb of Hamburg-Altona (more fully described in SCN.4/L.8), conveys the same to the Meeting of States Parties.

Section 2. Recommendations concerning the building requirements and facilities of the International Tribunal for the Law of the Sea provided by the host country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities provided by the host country for the most effective discharge of the functions of the Tribunal, it is desirable that the Meeting of States Parties takes note of the appropriate arrangements for the same.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Meeting of States Parties takes note of the planning and arrangements made in this connection by the host country, including the specifications provided in SCN.4/L.16 and Add.1.

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The Preparatory Commission and Special Commission 4 had received reports from the host country on the designation of the site in Hamburg and the progress made in evaluating requirements and planning for the building and equipment needs of the Tribunal, including indications as to site, building, equipment and facilities being provided to the Tribunal by the host country. The relevant documents and reports reviewed and taken note of in this connection are:

(a) Preliminary information on the establishment of facilities for international courts and tribunals (SCN.4/1986/CRP.19, dated 8 April 1986);

(b) Brief progress report on the preparations for the housing of the International Tribunal for the Law of the Sea in Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.6, dated 2 September 1986);

(c) Letter dated 9 February 1987 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/80, dated 12 March 1987);

(d) Second report on practical arrangements for the installation of the International Tribunal for the Law of the Sea at Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.8, dated 13 March 1987);

(e) Report of the Chairman on the visit by the Bureau of Special Commission 4 and officials of the United Nations Secretariat to the Federal Republic of Germany, 24-28 August 1987 (SCN.4/L.12, dated 21 March 1988);

(f) Letter dated 15 March 1989 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/106, dated 17 March 1989);

(g) Report on the progress of work dated 13 March 1991 concerning building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg - Statement of the Parliamentary State-Secretary H.E. Mr. Rainer Funke, Ministry of Justice of the Federal Republic of Germany (SCN.4/1991/CRP.40, dated 15 March 1991);

(h) Report of the delegation of the Federal Republic of Germany on the building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg (SCN.4/L.16, dated 9 March 1992).

While these reports and the information provided do not contain precise descriptions as to furniture and equipment, the objective of the host country is to hand over a building in a state that is ready for use. This would include the equipment for heating, lighting, telephones, telefax, interpreters' booths, sanitary and electronic installations and ventilation equipment for special rooms. Storage, filing and cloakroom facilities in the relevant offices and basic furniture such as desks, filing equipment, trolleys, reception tables, soft furnishings, chairs, furniture for sittings and meeting rooms, archive and library shelving and equipment for the restaurant area are contemplated as coming within the furnished facility to be provided. It would not include such items as typewriters, copy machines and reading lights as well as special furniture, e.g., safes and private furnishings for the Caretaker's flat.

Section 3. Recommendations concerning the requirements and facilities necessary to supplement those provided by the host country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities in addition to those provided by the host country, it is desirable that the Meeting of States Parties makes appropriate arrangements for the same.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Meeting of States Parties, in addition to taking note of the planning and arrangements made in this connection by the host country, evaluates the needs and determines the necessary arrangements to supplement those provided by the host country.

The Preparatory Commission and Special Commission 4 received reports from the host country specifying the progress made in evaluating requirements and planning for the building and providing for the equipment needs of the Tribunal, including facilities and furnishings to be provided by it. The relevant documents and reports taken note of in this connection are identified in section 2 above. The Meeting of States Parties would have to evaluate such items of furniture and equipment to be provided by the host country as referred to therein as well as the office and data-processing equipment and other operational accessories that would need to be provided for.

CHAPTER VI. FIRST MEETING OF STATES PARTIES

Section 1. Provisional agenda and rules of procedure for the Meeting of States Parties

For the purpose of constituting the International Tribunal early to perform its central role in the settlement of disputes relating to the law of the sea following the entry into force of the Convention, it is desirable that the relevant decisions for the functioning of the Meeting of States Parties be taken and that it proceeds with the election of the members of the Tribunal.

Therefore

THE PREPARATORY COMMISSION submits:

1. The provisional agenda for the Meeting of States Parties prepared by the Secretariat, addendum 8 hereto;

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2. The provisional rules of procedure for the Meeting of States Parties prepared by the Secretariat, 14/ addendum 9 hereto. It is understood that the provisional rules may be adopted for the conduct of its business and that they would be examined in due course with a view to the adoption of permanent rules of procedure for subsequent Meetings of States Parties.

Section 2. Election of the members of the Tribunal

In view of the requirement of the Convention that the first election of the members of the Tribunal shall be held within six months of the date of entry into force of this Convention, it is essential that the election should take place during the first Meeting of States Parties. The Secretary-General of the United Nations whose function it is, under article 4 of the Statute of the Tribunal, would issue the invitations to States Parties for the nomination of candidates for election as members of the Tribunal at least three months before the date of election, would prepare a list of all persons thus nominated to be submitted to States Parties within the time prescribed and would communicate the same to the Meeting of States Parties.

In connection with the geographical distribution and the representation of the principal legal systems among the members of the Tribunal in its composition and in the composition of its chambers, the Preparatory Commission expressed the view that firm and detailed rules should not be established by it. However, the principles to be applied in making such determinations would be needed. The Preparatory Commission considered it useful for relevant proposals and recommendations to be made for consideration by the Meeting of States Parties 15/ and the Secretariat was, therefore, requested to draw up a comparative table illustrating the alternatives for distribution of the six additional seats after fulfilling the minimum geographical representation requirement.

Therefore

THE PREPARATORY COMMISSION submits for consideration:

a comparative table illustrating alternatives for the distribution of the six additional seats among members of the Tribunal after fulfilling the minimum geographic representation requirement, prepared by the Secretariat, addendum 10 hereto.

14/ The Chairman's Statement to the plenary (LOS/PCN/L.81, paras. 16 and 17).

15/ Refer SCN.4/L.1.

Annex I

LIST OF ADDENDA

1. Final draft Rules of the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the revised draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) on the basis of the conclusions of the Special Commission).

2. Final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (prepared by the Secretariat as a revision of the revised draft Headquarters Agreement (SCN.4/WP.5/Rev.1) on the basis of the conclusions of the Special Commission).

3. Final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1) on the basis of the conclusions of the Special Commission).

4. Final draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9) on the basis of the conclusions of the Special Commission).

5. Report on principles governing relationship arrangements between the International Tribunal for the Law of the Sea and the International Seabed Authority (prepared by the Secretariat taking into account the consideration of SCN.4/WP.10 - Principles governing a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority) on the basis of the deliberations of the Special Commission.

6. Final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the basis of the deliberations and conclusions of the Special Commission based on SCN.4/WP.8 and Add.1 and 2).

7. Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the basis of the deliberations and conclusions of the Special Commission in reviewing SCN.4/WP.11 - Issues concerning the initial financing and budget of the International Tribunal for the Law of the Sea).

8. Provisional agenda for the First Meeting of States Parties to the Convention, convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat).

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9. Provisional rules of procedure for the Meeting of States Parties convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat).

10. Comparative review of alternatives for distribution of seats among members of the Tribunal (prepared by the Secretariat).

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Annex II

LIST OF ATTACHMENTS

DOCUMENTS OF SPECIAL COMMISSION 4

Working papers

LOS/PCN/SCN.4/WP.1	Practical arrangements for the establishment of the International Tribunal for the Law of the Sea. Working paper by the Secretariat	[16 March 1984]
LOS/PCN/SCN.4/WP.2	International Tribunal for the Law of the Sea Draft Rules of the Tribunal. Prepared by the Secretariat	[27 July 1984]
LOS/PCN/SCN.4/WP.2*	International Tribunal for the Law of the Sea Draft Rules of the Tribunal. Prepared by the Secretariat	[28 March 1985]
LOS/PCN/SCN.4/WP.2/Add.1	International Tribunal for the Law of the Sea Supplement to the draft Rules of the Tribunal. Addendum Prepared by the Secretariat	[25 March 1985]
LOS/PCN/SCN.4/WP.2/Add.1/ Corr.1 (Russian only)	Corrigendum	[7 April 1986]
LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)	International Tribunal for the Law of the Sea. Draft Rules of the Tribunal. Part I. Articles 1 to 93. Prepared by the Secretariat	[30 June 1986]
LOS/PCN/SCN.4/WP.2/Rev.1 (Part II)	International Tribunal for the Law of the Sea. Draft Rules of the Tribunal. Part II. Articles 94 to 140. Prepared by the Secretariat	[24 March 1987]
LOS/PCN/SCN.4/WP.3	International Tribunal for the Law of the Sea Table of concurrence of the draft Rules of the Tribunal. Prepared by the Secretariat	[18 March 1985]
LOS/PCN/SCN.4/WP.4	Headquarters Agreement and related instruments on Privileges and Immunities. (Issues for consideration)	[2 September 1986]

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* Reissued for technical reasons (Russian only).

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LOS/PCN/SCN.4/WP.5 (Part I)	Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. Prepared by the Secretariat [4 August 1987]
LOS/PCN/SCN.4/WP.5 (Part II)	Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. Part II (Articles 17-28) Prepared by the Secretariat [26 February 1988]
LOS/PCN/SCN.4/WP.5/Rev.1	Revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. Prepared by the Secretariat [8 August 1988]
LOS/PCN/SCN.4/WP.5/Rev.1/Corr.1	Corrigendum [29 August 1988]
LOS/PCN/SCN.4/WP.6	Draft Convention/Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea. Prepared by the Secretariat [23 March 1988]
LOS/PCN/SCN.4/WP.6/Rev.1	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea. Prepared by the Secretariat [25 February 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.1 (English only)	Corrigendum [27 February 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.2 (A/C/E/R/S only)	Corrigendum [12 March 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.3 (Chinese only)	Corrigendum [12 March 1991]
LOS/PCN/SCN.4/WP.6/Rev.1/Corr.4 (French only)	Corrigendum [18 March 1991]
LOS/PCN/SCN.4/WP.7	Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations. Working paper by the Secretariat [20 March 1989]
LOS/PCN/SCN.4/WP.8	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Prepared by the Secretariat [27 February 1990]

LOS/PCN/SCN.4/WP.8/Add.1	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum. (Supplementary cost estimates reflecting alternatives as to official working languages) Prepared by the Secretariat [28 March 1990]
LOS/PCN/SCN.4/WP.8/Add.1*	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum. (Supplementary cost estimates reflecting alternatives as to official working languages) (Prepared by the Secretariat) [17 August 1990]
LOS/PCN/SCN.4/WP.8/Add.1/ Corr.1 (English only)	Corrigendum [28 September 1990]
LOS/PCN/SCN.4/WP.8/Add.2	Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea. Addendum. (A scheme to phase in the establishment of the International Tribunal for the Law of the Sea) (Prepared by the Secretariat) [29 August 1990]
LOS/PCN/SCN.4/WP.8/Add.2/ Corr.1	Corrigendum [14 March 1991]
LOS/PCN/SCN.4/WP.9	Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. (Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea). Prepared by the Secretariat [16 March 1990]
LOS/PCN/SCN.4/WP.9/Add.1	Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. Addendum. (Arrangements regarding the United Nations common system of salaries and benefits, and participation in the United Nations Joint Staff Pension Fund). Prepared by the Secretariat [16 March 1990]
LOS/PCN/SCN.4/WP.10	Principles governing a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority (Prepared by the Secretariat) [10 August 1990]

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* Reissued for technical reasons.

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LOS/PCN/SCN.4/WP.11	Issues concerning the initial financing and budget of the International Tribunal for the Law of the Sea (Prepared by the Secretariat) [1 August 1991]
LOS/PCN/SCN.4/WP.12	Suggestions of the Latin American and Caribbean Group regarding languages of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2) [13 August 1992]
LOS/PCN/SCN.4/WP.13	Proposals submitted by Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland concerning the languages of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2) [18 August 1992]
LOS/PCN/SCN.4/WP.13/Corr.1	Corrigendum [1 September 1992]
LOS/PCN/SCN.4/WP.14	Draft outline for report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea [19 August 1992]
LOS/PCN/SCN.4/WP.15	Draft report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea [5 March 1993]
LOS/PCN/SCN.4/WP.15/Add.1*	Final draft Rules of the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the revised draft Rules of the Tribunal (LOS/PCN/SCN.4/WP.2/Rev.1, Parts I and II) on the basis of conclusions of the Special Commission) [Issued as LOS/PCN/SCN.4/WP.16.Add.1]
LOS/PCN/SCN.4/WP.15/Add.2	Final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (prepared by the Secretariat as a revision of the revised draft Headquarters Agreement (LOS/PCN/SCN.4/WP.5/Rev.1) on the basis of the conclusions of the Special Commission) (LOS/PCN/SCN.4/WP.5/Rev.2) [5 March 1993]

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* These documents are issued as addenda to LOS/PCN/SCN.4/WP.16.

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LOS/PCN/SCN.4/WP.15/Add.3	Final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the revised draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1) on the basis of the conclusions of the Special Commission) (LOS/PCN/SCN.4/WP.6/Rev.2) [5 March 1993]
LOS/PCN/SCN.4/WP.15/Add.4*	Final draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (prepared by the Secretariat as a revision of the draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9) on the basis of the conclusions of the Special Commission) [Issued as LOS/PCN/SCN.4/WP.16/Add.4]
LOS/PCN/SCN.4/WP.15/Add.5*	Report on principles governing relationship arrangements between the International Tribunal for the Law of the Sea and the International Seabed Authority (prepared by the Secretariat taking into account the consideration of SCN.4/WP.10 - Principles governning a relationship arrangement between the International Tribunal for the Law of the Sea and the International Seabed Authority - on the basis of the deliberations of the Special Commission) [Issued as LOS/PCN/SCN.4/WP.16/Add.5]
LOS/PCN/SCN.4/WP.15/Add.6	Final working paper on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the basis of the deliberations and conclusions of the Special Commission based on SCN.4/WP.8 and Add.1 and 2) [13 April 1993]
LOS/PCN/SCN.4/WP.15/Add.7*	Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea (prepared by the Secretariat on the basis of the deliberations and conclusions of the Special Commission in reviewing SCN.4/WP.11 - Issues concerning the initial financing and budget of the International Tribunal for the Law of the Sea) [Issued as LOS/PCN/SCN.4/WP.16/Add.7]

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* These documents are issued as addenda to LOS/PCN/SCN.4/WP.16.

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LOS/PCN/SCN.4/WP.15/Add.8*	Provisional agenda for the First Meeting of States Parties to the Convention, convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat) [Issued as LOS/PCN/SCN.4/WP.16/Add.8]
LOS/PCN/SCN.4/WP.15/Add.9*	Provisional rules of procedure for the Meeting of States Parties convened in accordance with annex VI, article 4, of the Convention (prepared by the Secretariat) [Issued as LOS/PCN/SCN.4/WP.16/Add.9]
LOS/PCN/SCN.4/WP.15/Add.10*	Comparative review of alternatives for distribution of seats among members of the Tribunal (prepared by the Secretariat) [Issued as LOS/PCN/SCN.4/WP.16/Add.10]
LOS/PCN/SCN.4/L.1	Chairman's summing up of the discussions [10 July 1984]
LOS/PCN/SCN.4/L.2	Chairman's summary of discussions on parts I and II of the draft Rules of the Tribunal [4 September 1984]
LOS/PCN/SCN.4/L.2/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. Addendum. Part III. Proceedings in disputes. Sections A, B and C [29 January 1985]
LOS/PCN/SCN.4/L.2/Add.1/ Corr.1 (C/E/F/R only)	Corrigendum [11 February 1985]
LOS/PCN/SCN.4/L.3	Chairman's summary of further discussions on the draft Rules of the International Tribunal for the Law of the Sea [3 April 1985]
LOS/PCN/SCN.4/L.3/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. Addendum. Part III. Proceedings in disputes. Section D. Incidental proceedings [27 June 1985]
LOS/PCN/SCN.4/L.4	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea [3 September 1985]

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* These documents are issued as addenda to LOS/PCN/SCN.4/WP.16.

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LOS/PCN/SCN.4/L.4/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. Addendum. Prompt release of vessels and crews (document LOS/PCN/SCN.4/WP.2/Add.1) [24 February 1986]
LOS/PCN/SCN.4/L.5	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea [9 April 1986]
LOS/PCN/SCN.4/L.5/Add.1	Chairman's summary of discussions on the draft Rules of the International Tribunal for the Law of the Sea. Addendum [7 August 1986]
LOS/PCN/SCN.4/L.6	Brief progress report on the preparations for the housing of the International Tribunal for the Law of the Sea in Hamburg. Submitted by the delegation of the Federal Republic of Germany [2 September 1986]
LOS/PCN/SCN.4/L.7	Chairman's summary of discussions on the revised draft Rules of the International Tribunal for the Law of the Sea [4 September 1986]
LOS/PCN/SCN.4/L.7/Add.1	Chairman's summary of discussions on the revised draft Rules of the International Tribunal for the Law of the Sea. Addendum. Part IV. Proceedings in disputes [31 March 1987]
LOS/PCN/SCN.4/L.8	Second report on practical arrangements for the installation of the International Tribunal for the Law of the Sea at Hamburg Submitted by the delegation of the Federal Republic of Germany [13 March 1987]
LOS/PCN/SCN.4/L.9	Chairman's summary of discussions on the Headquarters Agreement and related instruments on privileges and immunities [14 April 1987]
LOS/PCN/SCN.4/L.9/Add.1	Chairman's summary of discussions. Addendum. Revised draft Rules of the International Tribunal for the Law of the Sea [20 August 1987]
LOS/PCN/SCN.4/L.10	Chairman's summary of discussions. Revised draft Rules of the International Tribunal for the Law of the Sea [19 February 1989]
LOS/PCN/SCN.4/L.10/Add.1	Chairman's summary of discussions. Addendum. Revised draft Rules of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) [14 August 1989]
LOS/PCN/SCN.4/L.10/Add.1/ Corr.1	Corrigendum [31 August 1989]

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LOS/PCN/SCN.4/L.11	Chairman's summary of discussions. Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany [3 March 1988]
LOS/PCN/SCN.4/L.11/Add.1	Chairman's summary of discussions. Addendum. Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5 (Parts I and II)) [15 June 1988]
LOS/PCN/SCN.4/L.11/Add.2	Chairman's Summary of Discussions on Revised Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5/Rev.1 and Corr.1)
LOS/PCN/SCN.4/L.12	Report of the Chairman on the visit by the Bureau of Special Commission 4 and officials of the United Nations Secretariat to the Federal Republic of Germany (24-28 August 1987) [21 March 1988]
LOS/PCN/SCN.4/L.13	Chairman's summary of discussions. Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea [18 January 1989]
LOS/PCN/SCN.4/L.13/Add.1	Chairman's summary of discussions. Addendum. [14 March 1990]
LOS/PCN/SCN.4/L.13/Add.2	Chairman's Summary of Discussions on Revised Draft Protocol on the Privileges and Immunities of the International Tribunal (LOS/PCN/SCN.4/WP.6/Rev.1 and Corr.1 and 2)
LOS/PCN/SCN.4/L.14	Chairman's summary of discussions. Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea [27 March 1990]
LOS/PCN/SCN.4/L.14/Add.1	Chairman's summary of discussions on administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.8); Addendum: Supplementary cost estimates reflecting alternatives as to official working languages (LOS/PCN/SCN.4/WP.8/Add.1 and Corr.1); further addendum: Scheme to phase in the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.8/Add.2 and Corr.1)

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LOS/PCN/SCN.4/L.15	Chairman's summary of discussions. Relationship arrangements between the United Nations and the International Tribunal for the Law of the Sea. Draft Agreement on Cooperation and Relationships between the United Nations and the International Tribunal for the Law of the Sea	[20 February 1991]
LOS/PCN/SCN.4/L.16	Building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg (Report of the German delegation)	[9 March 1992]
LOS/PCN/SCN.4/L.16/Add.1	Building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg (Submitted by the delegation of Germany)	[17 August 1992]
LOS/PCN/SCN.4/L.17	Chairman's summary of discussions on the Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (LOS/PCN/SCN.4/WP.10)	
LOS/PCN/SCN.4/L.18	Chairman's summary of discussions on the report with recommendations concerning the Initial Financing and Budget of the Tribunal (LOS/PCN/SCN.4/WP.11)	
LOS/PCN/SCN.4/L.19	Chairman's summary of discussions on the Use of the United Nations Laissez-Passer by the Tribunal and its officials	
LOS/PCN/SCN.4/L.20	Chairman's summary of discussions on the Draft Report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.15)	

Conference room papers

LOS/PCN/SCN.4/1984/CRP.1/Rev.1	Agenda for Special Commission 4	[29 March 1984]
LOS/PCN/SCN.4/1984/CRP.2	Suggestions of the Bureau	[27 March 1984]
LOS/PCN/SCN.4/1984/CRP.3	Extract from statement by the Chairman. The composition of the Tribunal and its chambers	[28 March 1984]

LOS/PCN/SCN.4/1984/CRP.3/ Corr.1	Corrigendum	[30 March 1984]
LOS/PCN/SCN.4/1984/CRP.4	Statement by the Chairman. Access by entities other than States	[4 April 1984]
LOS/PCN/SCN.4/1984/CRP.5	Statement by the Chairman on the question of advisory opinions	[10 April 1984]
LOS/PCN/SCN.4/1985/CRP.6	Suggested redraft of article 62, paragraph 3, in document LOS/PCN/SCN.4/WP.2	[20 March 1985]
LOS/PCN/SCN.4/1985/CRP.7	Suggested redraft of article 79, paragraph 4, in document LOS/PCN/SCN.4/WP.2	[27 March 1985]
LOS/PCN/SCN.4/1985/CRP.8	Privileges and immunities of the Tribunal. Statement by the Special Representative of the Secretary-General for the Law of the Sea	[29 March 1985]
LOS/PCN/SCN.4/1985/CRP.9	Privileges and immunities of the Tribunal. Statement by the Chairman	[1 April 1985]
LOS/PCN/SCN.4/1985/CRP.10	Suggested redraft of article 84, paragraphs 2, 3, 4 (LOS/PCN/SCN.4/WP.2)	[2 April 1985]
LOS/PCN/SCN.4/1985/CRP.11	Explanatory statement by the Secretary on Supplement to the draft Rules of the Tribunal on the Prompt Release of Vessels and Crews (LOS/PCN/SCN.4/WP.2/Add.1)	[2 April 1985]
LOS/PCN/SCN.4/1985/CRP.12	Suggested redraft of article 98 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[29 August 1985]
LOS/PCN/SCN.4/1985/CRP.13	Suggested redraft of article 108 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[29 August 1985]
LOS/PCN/SCN.4/1985/CRP.14	Suggested redraft of articles 110-112 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[29 August 1985]
LOS/PCN/SCN.4/1986/CRP.15	Suggested redraft of articles 4 (1) and 9 (5) in document LOS/PCN/SCN.4/WP.2	[21 March 1986]
LOS/PCN/SCN.4/1986/CRP.16	Suggested redraft of article 129 (1) in document LOS/PCN/SCN.4/WP.2	[27 March 1986]
LOS/PCN/SCN.4/1986/CRP.17	Suggested redraft of preamble in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[4 April 1986]

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LOS/PCN/SCN.4/1986/CRP.18	Suggested redraft of articles 64 and 84 in document LOS/PCN/SCN.4/WP.2 Prepared by the Secretariat	[4 April 1986]
LOS/PCN/SCN.4/1986/CRP.19	Preliminary information on the establishment of facilities for international courts or tribunals. Prepared by the Secretariat	[8 April 1986]
LOS/PCN/SCN.4/1986/CRP.19/ Corr.1 (Chinese only)	Corrigendum	[8 April 1986]
LOS/PCN/SCN.4/1986/CRP.20	Suggested redraft of article 1 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Prepared by the Secretariat	[18 August 1986]
LOS/PCN/SCN.4/1986/CRP.21	Informal proposal by the Bureau	[4 September 1986]
LOS/PCN/SCN.4/1987/CRP.22	Suggested redraft of articles 89 to 91 and 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Submitted by the delegation of the Union of Soviet Socialist Republics	[5 August 1987]
LOS/PCN/SCN.4/1988/CRP.23	Informal suggested redraft of article 89, paragraph 4, in document LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Subsection 2. Prompt release of vessels and crews. Proposed by the Secretariat	[31 March 1988]
LOS/PCN/SCN.4/1988/CRP.23/ Rev.1	Informal suggested redraft of article 89, paragraph 4 (document LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Subsection 2. Prompt release of vessels and crews. Proposed by the Secretariat	[7 July 1988]
LOS/PCN/SCN.4/1988/CRP.24	Informal suggestion relating to the draft Convention/Protocol on Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6). Submitted by the delegation of the Federal Republic of Germany	[31 March 1988]
LOS/PCN/SCN.4/1988/CRP.25	Suggested redraft of article 91 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) Submitted by the delegations of Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland	[19 August 1988]

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LOS/PCN/SCN.4/1988/CRP.26	Informal suggested redraft of article 6 (LOS/PCN/SCN.4/WP.6). *Submitted by the delegation of Australia* [19 August 1988]
LOS/PCN/SCN.4/1988/CRP.27	Informal suggested redraft of article 7 (LOS/PCN/SCN.4/WP.6). *Submitted by the delegation of Switzerland* [22 August 1988]
LOS/PCN/SCN.4/1988/CRP.28	Suggested redraft of article 91 in document LOS/PCN/SCN.4/WP.2/Rev.1 (Part I) (*Prepared by the Secretariat*) [26 August 1988]
LOS/PCN/SCN.4/1988/CRP.28/ Corr.1 (French only)	*Corrigendum* [30 August 1988]
LOS/PCN/SCN.4/1988/CRP.29	Suggested redraft of article 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) *Submitted by the delegation of Greece on behalf of the delegations of Belgium, Denmark, France, the Federal Republic of Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland* [30 August 1988]
LOS/PCN/SCN.4/1988/CRP.30	Suggested redraft of article 91 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)) *Submitted by the delegation of the United Republic of Tanzania on behalf of the Group of 77* [30 August 1988]
LOS/PCN/SCN.4/1989/CRP.31	Proposal submitted by France regarding the draft Convention/Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6) [9 March 1989]
LOS/PCN/SCN.4/1989/CRP.32	Suggested redraft of article 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)). *Submitted by the delegation of Japan* [14 March 1989]
LOS/PCN/SCN.4/1989/CRP.33	Suggested redraft of article 14 *bis* (LOS/PCN/SCN.4/WP.6). *Submitted by the delegation of the Ukrainian Soviet Socialist Republic* [21 March 1989]
LOS/PCN/SCN.4/1989/CRP.34	*Belgium*: Proposals relating to the draft Convention on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6) [16 August 1989]

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LOS/PCN/SCN.4/1989/CRP.35	Suggested article 16 bis (LOS/PCN/SCN.4/WP.6). Submitted by the delegation of the Federal Republic of Germany [16 August 1989]
LOS/PCN/SCN.4/1989/CRP.36	Indicative list of issues specific to relationship agreements between the International Tribunal for the Law of the Sea and the United Nations, the International Seabed Authority, the International Court of Justice and specialized agencies of the United Nations with relevant competences. (Note by the Secretariat) [28 August 1989]
LOS/PCN/SCN.4/1989/CRP.37	Suggested redraft of article 90, paragraph 1, and article 93 (LOS/PCN/SCN.4/WP.2/Rev.1 (Part I)). Submitted by the delegation of the United Republic of Tanzania on behalf of the Group of 77; the delegation of France on behalf of the delegations of Belgium, Denmark, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom of Great Britain and Northern Ireland; the delegation of Japan; and the delegation of the Union of Soviet Socialist Republics [29 August 1989]
LOS/PCN/SCN.4/1990/CRP.38	Informal proposal of the Bureau. Organization of the future work of Special Commission 4 [23 March 1990]
LOS/PCN/SCN.4/1991/CRP.39	Status of work in Special Commission 4 [8 March 1991]
LOS/PCN/SCN.4/1991/CRP.40	Report on the progress of work dated 13 March 1991 concerning the building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg. Statement of the Parliamentary State-Secretary, H.E. Mr. Rainer Funke, Ministry of Justice of the Federal Republic of Germany [15 March 1991]
LOS/PCN/SCN.4/1991/CRP.41	Proposals submitted by Switzerland regarding the revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) [16 August 1991]
LOS/PCN/SCN.4/1991/CRP.42	Proposals submitted by Switzerland concerning the revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) [22 August 1991]

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LOS/PCN/SCN.4/1991/CRP.43	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) Redraft of pending articles (Submitted by the Secretariat)	[27 August 1991]
LOS/PCN/SCN.4/1991/CRP.44	Revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6/Rev.1) Redraft of article 12 (Submitted by the Secretariat)	[28 August 1991]
LOS/PCN/SCN.4/1992/CRP.45	Suggested redraft of article 32* in document LOS/PCN/SCN.4/WP.5/Rev.1 (Submitted by the Secretariat)	[6 March 1992]
LOS/PCN/SCN.4/1992/CRP.46	Proposed amendments to article 1 (d) and article 23 (1) of document LOS/PCN/SCN.4/WP.6/Rev.1 (Proposed by the delegation of Senegal)	[10 March 1992]
LOS/PCN/SCN.4/1993/CRP.47	Comments submitted by the European Community and its member States on the draft outline for report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.14)	[1 February 1993]
LOS/PCN/SCN.4/1993/CRP.48	Suggested amendment to the draft provisional report of Special Commission 4 (LOS/PCN/SCN.4/WP.15) Submitted by the delegation of the Russian Federation	[2 April 1993]

Plenary documents of particular relevance to Special Commission 4

LOS/PCN/27	Suggestions by the Chairman adopted at the 5th plenary meeting of the Commission on 8 September 1983	[8 September 1983]
LOS/PCN/80	Letter dated 9 February 1987 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea	[12 March 1987]

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* To replace article 32, paras. 1 and 2.

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LOS/PCN/106	Letter dated 15 March 1989 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea [17 March 1989]
LOS/PCN/L.4	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [12 April 1984]
LOS/PCN/L.12	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [4 September 1984]
LOS/PCN/L.17	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [2 April 1985]
LOS/PCN/L.24	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [3 September 1985]
LOS/PCN/L.24/Corr.1 (Arabic and English only)	Corrigendum [3 September 1985]
LOS/PCN/L.33	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [10 April 1986]
LOS/PCN/L.39	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [4 September 1986]
LOS/PCN/L.47	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [14 April 1987]
LOS/PCN/L.53	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [20 August 1987]
LOS/PCN/L.61	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [6 April 1988]
LOS/PCN/L.66	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [31 August 1988]
LOS/PCN/L.71	Statement to the plenary by the Acting Chairman of Special Commission 4 on the progress of work in that Commission [21 March 1989]

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LOS/PCN/L.71/Corr.1	*Corrigendum* [10 May 1989]
LOS/PCN/L.76	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [31 August 1989]
LOS/PCN/L.81	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [29 March 1990]
LOS/PCN/L.86	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [30 August 1990]
LOS/PCN/L.91	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [21 March 1991]
LOS/PCN/L.96	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [29 August 1991]
LOS/PCN/L.101	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [11 March 1992]
LOS/PCN/L.103	Progress report of the Chairman of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea on the work of the Commission [7 July 1992]
LOS/PCN/L.107	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [20 August 1992]
LOS/PCN/L.108	Statement by the Chairman of the Preparatory Commission [20 August 1992]
LOS/PCN/L.112	Statement to the plenary by the Chairman of Special Commission 4 on the progress of work in that Commission [31 March 1993]
LOS/PCN/L.113	Statement by the Chairman of the Preparatory Commission [31 March 1993]
LOS/PCN/L.113/Corr.1	*Corrigendum* [1 April 1993]
